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GENERAL LAWS

OF

CALIFORNIA

AS AMENDED AND IN FORCE AT THE CLOSE OF
THE THIRTY-SIXTH SESSION OF THE
LEGISLATURE, 1905

IN ONE VOLUME

FULLY ANNOTATED BY
W. F. HENNING

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FOREWORD.

The object of the following work is to present all of the general laws of the state of California, which are now in force, in a single volume, and in as complete a form as possible. With the purpose of rendering the compilation as convenient as practicable in use, the cyclopedic or alphabetical arrangement has been adopted, and no pains have been spared to make the whole as complete as possible, alike in statutes, their histories, and references to the cases decided in which a statute is involved. For the convenience of those who may desire to trace any particular statute from its inception to its present form, in each case the volume and page of the session laws where the original enactment appears is given, as well as the volume and the page of each and every amendment or revision thereof.

The general laws are found in thirty-six volumes of session laws, with many conflicting provisions; which volumes contain also an innumerable mass of conflicting special legislation. With special legislation, nothing has been attempted; it is only the general laws in force that have been collated. Many general laws have been codified and carried into the appropriate codes, and where this has been done the fact is noted and reference made to the appropriate section of the particular code into which the statute, or part of the statute, has been carried.

In the various conflicting enactments, amendments, revisions, and repeals, it is sometimes a difficult matter to decide just what acts, or parts of acts, are still in force, and it will require a decision of the supreme court to finally settle the question. We do not claim to be able to judicially determine whether certain laws are "in force." It is possible that the courts may in some decisions declare that there is some vitality existing in a statute that has been omitted from this volume as "superseded" or repealed; but our effort has been to err, if at all, by inserting statutes where there is doubt as to their vitality, rather than by omitting them.

There are many subjects of legislation having a history, and we have endeavored to give such history by reference, in the notes, to past legislation on such subjects. On the subject of corporations, the notes embrace upwards of seventy statutes enacted from 1850 to the adoption of the codes. The subjects of Roads and Highways and Municipal Government are exhaustively annotated, and all other subjects are treated with thoroughness; so that it is believed the busy lawyer, the student, the professor, and the judge,—in fact, every one having occasion to consult the laws of this state,—will here find ready the laws as they are to-day, with references to the decisions construing

them, and to the history of the legislation on the subjects they would inquire into.

A table of statutes, from 1872 to 1905, which have been held unconstitutional, or otherwise void, or repealed, in decisions of the supreme court of this state, together with references to the decisions, from volume 45 to volume 145, inclusive, of the California Reports, is given for convenience of ready reference.

Pacific Reporter citations, as well as duplicate references to the American Decisions, American Reports, American State Reports, and the Lawyers' Reports Annotated, are given.

Numerous references are made to the notes or annotations in the Trinity Series and the Lawyers' Reports Annotated, wherein will be found valuable discussions on the points to which the references are made. No pains have been spared to make the work as complete and serviceable to the bench and bar as it is practicable to make it. In the matter of annotation it has not been sought to abstract the point decided or to give the reasoning of the court in arriving at its conclusion; the author has been contented with merely referring to the case and the page where the discussion will be found. The occasional departing from this rule is confined to a few instances only, in which the decision referred to is likely not to be found upon the shelves of the library of many lawyers.

The publication of this series, presenting the codes and statute laws of California as they are to-day, is not a spasmodic effort on the part of the publishers. A staff of trained writers and annotators has for some time been engaged in this work, and will be retained; so that not only the laws of California, as now presented, will be kept up to date in a convenient and inexpensive form in the future, but other valuable publications on various subjects in the different departments of the law will be put forth from time to time, in keeping with the public demand therefor.

W. F. HENNING.

August 11, 1905.

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DECLARATION OF INDEPENDENCE.

JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED.

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation until his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws: giving his assent to their acts of pretended legislation.

For quartering large bodies of armed troops among us;

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states;

For cutting off our trade with all parts of the world;

For imposing taxes on us without our consent;

For depriving us in many cases of the benefits of trial by jury;

For transporting us beyond seas to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering fundamentally, the forms of our governments;

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burned our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection among us, and has endeavored to bring

on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in General Congress, assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be free and independent states; that they are absolved from all allegiance to the British Crown, and that all political connections between them and the state of Great Britain, is and ought to be totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed and signed by the following members:

JOHN HANCOCK,
SAMUEL ADAMS,
JOHN ADAMS,
ROBERT TREAT PAINE,
ELBRIDGE GERRY,
JOSIAH BARTLETT,
WILLIAM WHIPPLE,
MATTHEW THORNTON,
STEPHEN HOPKINS,
WILLIAM ELLERY,
CÆSAR RODNEY,
GEORGE READ,
THOMAS M'KEAN,
ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,

JOHN HART,
ABRAHAM CLARK,
WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.,
ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
OLIVER WOLCOTT,
SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHARLES CARROLL,
OF CARROLLTON,
WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS,

GEORGE WYTHE,
RICHARD HENRY LEE,
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, JR.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON,
GEORGE CLYMER,
JAMES SMITHE,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS,
EDWARD RUTLEDGE,
THOMAS HEYWARD, JR.,
THOMAS LYNCH, JR.,
ARTHUR MIDDLETON,
BUTTON GWINNETT,
LYMAN HALL,
GEORGE WALTON.

CONSTITUTION OF THE UNITED STATES—1787.

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.

§ 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

§ 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

[Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.] The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

§ 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make tempo-

rary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

§ 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

§ 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

§ 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

§ 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post-roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriations of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

§ 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

§ 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of

attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

§ 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.] [This paragraph is superseded by article XII of the Amendments to the Constitution, post p. xxvi.]

The Congress may determine the time of choosing the electors and the day on which they shall give their votes: which day shall be the same throughout the United States.

No person except a natural-born citizen, or a citizen of the United States,

at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

§ 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States: he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardon for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointment are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

§ 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper: he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

§ 4. The president, vice-president and all civil officers of the United States,

shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

§ 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

§ 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers, and counsels;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;—between a state and citizens of another state;—between citizens of different states,—between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

§ 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

§ 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

§ 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, es-

caping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

§ 3. New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

§ 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

RATIFICATION OF CONSTITUTION.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

GEO. WASHINGTON,
President and Deputy from Virginia.

New Hampshire—John Langdon, Nicholas Gilman.

Massachusetts—Nathaniel Gorham, Rufus King.

Connecticut—William Samuel Johnson, Roger Sherman.

New York—Alexander Hamilton.

New Jersey—William Livingston, David Brearley, William Paterson, Jonathan Dayton.

Pennsylvania—Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

Delaware—George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

Maryland—James McHenry, Daniel of St. Tho. Jenifer, Daniel Carroll.

Virginia—John Blair, James Madison, Jr.

North Carolina—William Blount, Richard Dobbs Spaight, Hugh Williamson.

South Carolina—John Rutledge, Charles C. Pinckney, Charles Pinckney, Pierce Butler.

Georgia—William Few, Abraham Baldwin.

Attest:—WILLIAM JACKSON, Secretary.

AMENDMENTS

TO THE CONSTITUTION OF THE UNITED STATES, RATIFIED ACCORDING TO THE PROVISIONS OF THE FIFTH ARTICLE OF THE FOREGOING CONSTITUTION.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE II.

A well-guarded militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE III.

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war but in a manner to be prescribed by law. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE IX.

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to these states respectively, or to the people. [Amendment, proposed 25th September, 1789; ratified 15th December, 1791.]

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state. [Amendment, proposed 5th March, 1794; ratified 8th January, 1798.]

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate;—the president of the senate shall, in presence of the senate and house of representatives, open all the certificates and the votes shall then be counted;—the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States. [Amendment, proposed 12th December, 1803; ratified 5th September, 1804.]

ARTICLE XIII.

§ 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

§ 2. Congress shall have power to enforce this article by appropriate legislation. [Proposed 1st February, 1865; ratification declared December 18, 1865.]

ARTICLE XIV.

§ 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

§ 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

§ 3. No person shall be a senator or representative in Congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability.

§ 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. [Proposed 16th June, 1866; ratification declared 21st July, 1868.]

ARTICLE XV.

§ 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

§ 2. The Congress shall have power to enforce this article by appropriate legislation. [Proposed 27th February, 1869; declared ratified 30th March, 1870.]

**TREATY OF PEACE, FRIENDSHIP, LIMITS AND SETTLEMENT
BETWEEN THE UNITED STATES OF AMERICA AND THE MEXICAN
REPUBLIC.**

Dated at Guadalupe Hidalgo, 2d February, 1848.

Ratified by the President U. S., 16th March, 1848.

Exchanged at Queretaro, 30th May, 1848.

Proclaimed by the President U. S., 4th July, 1848.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, A treaty of peace, friendship, limits, and settlement between the United States of America and the Mexican Republic was concluded and signed at the city of Guadalupe Hidalgo, on the second day of February, one thousand eight hundred and forty-eight, which treaty, as amended by the senate of the United States, and being in the English and Spanish languages, is word for word as follows:—

In the name of Almighty God:—

The United States of America and the United Mexican States, animated by a sincere desire to put an end to the calamities of the war which unhappily exists between the two republics, and to establish upon a solid basis relations of peace and friendship, which shall confer reciprocal benefits upon the citizens of both, and assure the concord, harmony, and mutual confidence wherein the two people should live, as good neighbors, have for that purpose appointed their respective plenipotentiaries—that is to say, the president of the United States has appointed Nicholas P. Trist, a citizen of the United States, and the president of the Mexican Republic has appointed Don Luis Gonzaga Cuevas, Don Bernardo Couto, and Don Miguel Atristan, citizens of the said republic, who, after a reciprocal communication of their respective full powers, have, under the protection of Almighty God, the author of peace, arranged, agreed upon, and signed the following

**TREATY OF PEACE, FRIENDSHIP, LIMITS AND SETTLEMENT BE-
TWEEN THE UNITED STATES OF AMERICA AND THE MEXICAN
REPUBLIC.**

ARTICLE I.

There shall be firm and universal peace between the United States of America and the Mexican Republic, and between their respective countries, territories, cities, towns, and people, without exception of places or persons.

ARTICLE II.

Immediately upon the signature of this treaty, a convention shall be entered into between a commissioner or commissioners appointed by the general-in-chief of the forces of the United States and such as may be appointed by the Mexican government, to the end that a provisional suspension of hostilities shall take place, and that, in the places occupied by the said forces, constitutional order may be re-established as regards the political, administrative, and

judicial branches, so far as this shall be permitted by the circumstances of military occupation.

ARTICLE III.

Immediately upon the ratification of the present treaty by the government of the United States, orders shall be transmitted to the commanders of their land and naval forces, requiring the latter (provided this treaty shall then have been ratified by the government of the Mexican republic, and the ratifications exchanged) immediately to desist from blockading any Mexican ports; and requiring the former (under the same condition) to commence, at the earliest moment practicable, withdrawing all troops of the United States then in the interior of the Mexican Republic, to points that shall be selected by common agreement, at a distance from the seaports not exceeding thirty leagues; and such evacuation of the interior of the republic shall be completed with the least possible delay; the Mexican government hereby binding itself to afford every facility in its power for rendering the same convenient to the troops, on their march and in their new positions, and for promoting a good understanding between them and the inhabitants. In like manner, orders shall be dispatched to the persons in charge of the custom-houses at all the ports occupied by the forces of the United States, requiring them (under the same condition) immediately to deliver possession of the same to the persons authorized by the Mexican government to receive it, together with all bonds and evidences of debt for duties on importations and on exportations, not yet fallen due. Moreover, a faithful and exact account shall be made out, showing the entire amount of all duties on imports and on exports, collected at such custom-houses or elsewhere in Mexico, by authority of the United States, from and after the day of the ratification of this treaty by the government of the Mexican Republic; and also on account of the cost of collection; and such entire amount, deducting only the cost of collection, shall be delivered to the Mexican government, at the city of Mexico, within three months after the exchange of ratifications.

The evacuation of the capital of the Mexican Republic by the troops of the United States, in virtue of the above stipulation, shall be completed within one month after the orders there stipulated for shall have been received by the commander of said troops, or sooner, if possible.

ARTICLE IV.

Immediately after the exchange of ratifications of the present treaty, all castles, forts, territories, places, and possessions, which have been taken or occupied by the forces of the United States during the present war within the limits of the Mexican Republic, as about to be established by the following article, shall be definitely restored to the said republic, together with all the artillery, arms, apparatus of war, munitions, and other public property, which were in the said castles and forts when captured, and which shall remain there at the time when this treaty shall be duly ratified by the government of the Mexican Republic. To this end, immediately upon the signature of this treaty, orders shall be dispatched to the American officers commanding such castles and forts, securing against the removal or destruction of any such artillery, arms, apparatus of war, munitions, or other public property. The

city of Mexico, within the inner line of intrenchments surrounding the said city, is comprehended in the above stipulations as regards the restoration of artillery, apparatus of war, et cetera.

The final evacuation of the territory of the Mexican Republic, by the forces of the United States, shall be completed in three months from the said exchange of ratifications, or sooner, if possible: the Mexican government hereby engaging, as in the foregoing article, to use all means in its power for facilitating such evacuation, and rendering it convenient to the troops, and for promoting a good understanding between them and the inhabitants.

If, however, the ratification of this treaty by both parties should not take place in time to allow the embarkation of the troops of the United States to be completed before the commencement of the sickly season, at the Mexican ports on the Gulf of Mexico, in such case a friendly arrangement shall be entered into between the general-in-chief of the said troops and the Mexican government, whereby healthy and otherwise suitable places, at a distance from the ports not exceeding thirty leagues, shall be designated for the residence of such troops as may not yet have embarked, until the return of the healthy season. And the space of time here referred to as comprehending the sickly season, shall be understood to extend from the first day of May to the first day of November.

All prisoners of war taken on either side, on land or on sea, shall be restored as soon as practicable after the exchange of ratifications of this treaty. It is also agreed that if any Mexicans should now be held as captives by any savage tribe within the limits of the United States, as about to be established by the following article, the government of the said United States will exact the release of such captives, and cause them to be restored to their country.

ARTICLE V.

The boundary line between the two republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence, westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence, northward, along the western line of New Mexico, until it intersects the first branch of the river Gila (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same); thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled "Map of the United Mexican States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best Authorities. Revised edition. Published at New York, in eighteen hundred and forty-seven, by J. Disturnell." Of which

map a copy is added to this treaty, bearing the signatures and seals of the undersigned plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year seventeen hundred and eighty-two by Don Juan Pantoja, second sailing master of the Spanish fleet, and published at Madrid in the year eighteen hundred and two, in the atlas of the voyage of the schooners *Sutil* and *Mexicana*, of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both republics, as described in the present article, the two governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The boundary line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the general government of each, in conformity with its own constitution.

ARTICLE VI.

The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the River Colorado below its confluence with the Gila, to and from their possessions situated north of the boundary line defined in the preceding article; it being understood that this passage is to be by navigating the Gulf of California and the River Colorado, and not by land, without the express consent of the Mexican government.

If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal, or railway, which should in whole or part run upon the River Gila, or upon its right or its left bank, within the space of one marine league from either margin of the river, the governments of both republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

ARTICLE VII.

The River Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being agreeably to the fifth article, divided in the middle between the two republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citi-

zens of both countries; and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both governments.

The stipulations contained in the present article shall not impair the territorial rights of either republic within its established limits.

ARTICLE VIII.

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy, with respect to it, guarantees equally ample as if the same belonged to citizens of the United States.

ARTICLE IX.

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States according to the principles of the constitution; and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

ARTICLE X.

[Stricken out.]

ARTICLE XI.

Considering that a great part of the territories which, by the present treaty, are to be comprehended for the future within the limits of the United States,

is now occupied by savage tribes, who will hereafter be under the exclusive control of the government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme, it is solemnly agreed that all such incursions shall be forcibly restrained by the government of the United States whensoever this may be necessary; and that, when they cannot be prevented, they shall be punished by the said government, and satisfaction for the same shall be exacted—all in the same way, and with equal diligence and energy, as if the same incursions were meditated or committed within its own territory against its own citizens.

It shall not be lawful, under any pretext whatever, for any inhabitant of the United States to purchase or acquire any Mexican, or any foreigner residing in Mexico, who may have been captured by Indians inhabiting the territory of either of the two republics, nor to purchase or acquire horses, mules, cattle, or property of any kind, stolen within Mexican territory by such Indians.

And in the event of any person or persons, captured within Mexican territory by Indians, being carried into the territory of the United States, the government of the latter engages and binds itself in the most solemn manner, so soon as it shall know of such captives being within its territory, and shall be able so to do, through the faithful exercise of its influence and power, to rescue them, and return them to their country, or deliver them to the agent or representative of the Mexican government. The Mexican authorities will, as far as practicable, give to the government of the United States notice of such captures; and its agent shall pay the expenses incurred in the maintenance and transmission of the rescued captives; who, in the meantime, shall be treated with the utmost hospitality by the American authorities at the place where they may be. But if the government of the United States, before receiving such notice from Mexico, should obtain intelligence, through any other channel, of the existence of Mexican captives within its territory, it will proceed forthwith to effect their release and delivery to the Mexican agent as above stipulated.

For the purpose of giving to these stipulations the fullest possible efficacy, thereby affording the security and redress demanded by their true spirit and intent, the government of the United States will now and hereafter pass, without unnecessary delay, and always vigilantly enforce, such laws as the nature of the subject may require. And finally, the sacredness of this obligation shall never be lost sight of by the said government when providing for the removal of the Indians from any portion of the said territories, or for its being settled by citizens of the United States; but on the contrary, special care shall then be taken not to place its Indian occupants under the necessity of seeking new homes, by committing those invasions which the United States have solemnly obliged themselves to restrain.

ARTICLE XII.

In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the government of the United States engages to pay to that of the Mexican Republic the sum of fifteen millions of dollars.

Immediately after this treaty shall have been duly ratified by the government

of the Mexican Republic, the sum of three millions of dollars shall be paid to the said government by that of the United States, at the city of Mexico, in gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place, and in the same coin, in annual instalments of three millions of dollars each, together with interest on the same at the rate of six per centum per annum. This interest shall begin to run upon the whole sum of twelve millions from the day of the ratification of the present treaty by the Mexican government, and the first of the instalments shall be paid at the expiration of one year from the same day. Together with each annual instalment, as it falls due, the whole interest accruing on such instalment from the beginning shall also be paid.

ARTICLE XIII.

The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated, and decided against the Mexican Republic, under the conventions between the two republics severally concluded on the eleventh day of April, eighteen hundred and thirty-nine, and on the thirtieth day of January, eighteen hundred and forty-three; so that the Mexican Republic shall be absolutely exempt for the future from all expenses whatever on account of the said claims.

ARTICLE XIV.

The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

ARTICLE XV.

The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever canceled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one quarter millions of dollars. To ascertain the validity and amount of those claims, a board of commissioners shall be established by the government of the United States, whose awards shall be final and conclusive: provided, that in deciding upon the validity of each claim, the board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth articles of the unratified convention, concluded at the city of Mexico on the twentieth day of November, one thousand eight hundred and forty-three; and in no case shall an award be made in favor of any claim not embraced by these principles and rules.

If, in the opinion of the said board of commissioners, or of the claimants, any books, records, or documents in the possession or power of the government of the Mexican Republic, shall be deemed necessary to the just decision of any claim, the commissioners, or the claimants through them, shall, within such period as Congress may designate, make an application in writing for the same, addressed to the Mexican minister for foreign affairs, to be transmitted by the

secretary of state of the United States; and the Mexican government engages, at the earliest possible moment after the receipt of such demand, to cause any of the books, records, or documents, so specified, which shall be in their possession or power (or authenticated copies or extracts of the same), to be transmitted to the said secretary of state, who shall immediately deliver them over to the said board of commissioners; provided, that no such application shall be made by, or at the instance of, any claimant, until the facts which it is expected to prove by such books, records, or documents, shall have been stated under oath or affirmation.

ARTICLE XVI.

Each of the contracting parties reserves to itself the entire right to fortify whatever point within its territory it may judge proper so to fortify, for its security.

ARTICLE XVII.

The treaty of amity, commerce, and navigation, concluded at the City of Mexico on the fifth day of April, in the year of our Lord eighteen hundred and thirty-one, between the United States of America and the United Mexican States, except the additional article, and except so far as the stipulations of the said treaty may be incompatible with any stipulation contained in the present treaty, is hereby revived for the period of eight years from the day of the exchange of ratifications of this treaty, with the same force and virtue as if incorporated therein; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

ARTICLE XVIII.

All supplies whatever, for troops of the United States in Mexico, arriving at ports in the occupation of such troops previous to the final evacuation thereof, although subsequently to the restoration of the custom-houses at such ports, shall be entirely exempt from duties and charges of any kind; the government of the United States hereby engaging and pledging its faith to establish, and vigilantly to enforce all possible guards for securing the revenue of Mexico, by preventing the importation, under cover of this stipulation, of any articles other than such, both in kind and quantity, as shall really be wanted for the use and consumption of the forces of the United States during the time they may remain in Mexico. To this end, it shall be the duty of all officers and agents of the United States to denounce to the Mexican authorities at the respective ports any attempts at a fraudulent abuse of this stipulation which they may know of or may have reason to suspect, and to give to such authorities all the aid in their power with regard thereto: and every such attempt, when duly proved and established by sentence of a competent tribunal, shall be punished by the confiscation of the property so attempted to be fraudulently introduced.

ARTICLE XIX.

With respect to all merchandise, effects, and property whatsoever, imported into ports of Mexico whilst in the occupation of the forces of the United States, whether by citizens of either republic, or by citizens or subjects of any neutral nation, the following rules shall be observed:—

1. All such merchandise, effects, and property, if imported previously to the restoration of the custom-houses to the Mexican authorities, as stipulated for in the third article of this treaty, shall be exempt from confiscation, although the importation of the same be prohibited by the Mexican tariff.

2. The same perfect exemption shall be enjoyed by all such merchandise, effects, and property, imported subsequently to the restoration of the custom-houses, and previously to the sixty days fixed in the following article for the coming into force of the Mexican tariff at such ports respectively; the said merchandise, effects, and property being, however, at the time of their importation, subject to the payment of duties, as provided for in the said following article.

3. All merchandise, effects, and property described in the two rules foregoing shall, during their continuance at the place of importation, and upon their leaving such place for the interior, be exempt from all duty, tax, or impost of every kind, under whatsoever title or denomination. Nor shall they be there subjected to any charge whatsoever upon the sale thereof.

4. All merchandise, effects, and property described in the first and second rules, which shall have been removed to any place in the interior whilst such place was in the occupation of the forces of the United States, shall, during their continuance therein, be exempt from all tax upon the sale or consumption thereof, and from every kind of impost or contribution, under whatsoever title or denomination.

5. But if any merchandise, effects, or property described in the first and second rules, shall be removed to any place not occupied at the time by the forces of the United States, they shall, upon their introduction into such place, or upon their sale or consumption there, be subject to the same duties which, under the Mexican laws, they would be required to pay in such cases if they had been imported in time of peace, through the maritime custom-houses, and had there paid the duties conformably with the Mexican tariff.

6. The owners of all merchandise, effects, or property described in the first and second rules, and existing in any port of Mexico, shall have the right to reship the same, exempt from all tax, impost, or contribution whatever.

With respect to the metals, or other property, exported from any Mexican port whilst in the occupation of the forces of the United States, and previously to the restoration of the custom-house of such port, no person shall be required by the Mexican authorities, whether general or state, to pay any tax, duty, or contribution upon any such exportation, or in any manner to account for the same to the said authorities.

ARTICLE XX.

Through consideration for the interests of commerce generally, it is agreed, that if less than sixty days should elapse between the date of the signature of this treaty and the restoration of the custom-houses conformably with the stipulation in the third article, in such case all merchandise, effects, and property whatsoever, arriving at the Mexican ports after the restoration of the said custom-houses, and previously to the expiration of sixty days after the day of the signature of this treaty, shall be admitted to entry; and no other duties shall be levied thereon than the duties established by the tariff found in force at such custom-houses at the time of the restoration of the same. And to all such

merchandise, effects, and property, the rules established by the preceding article shall apply.

ARTICLE XXI.

If unhappily any disagreement should hereafter arise between the governments of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves; using, for this end, mutual representations and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

ARTICLE XXII.

If (which is not to be expected, and which God forbid!) war should unhappily break out between the two republics, they do now, with a view to such calamity, solemnly pledge themselves to each other and to the world, to observe the following rules, absolutely, where the nature of the subject permits, and as closely as possible in all cases where such absolute observance shall be impossible:

1. The merchants of either republic then residing in the other shall be allowed to remain twelve months (for those dwelling in the interior), and six months (for those dwelling at seaports), to collect their debts and settle their affairs; during which periods they shall enjoy the same protection and be on the same footing, in all respects, as the citizens or subjects of the most friendly nations; and, at the expiration thereof, or at any time before, they shall have full liberty to depart, carrying off all their effects without molestation or hindrance; conforming therein to the same laws which the citizens or subjects of the most friendly nations are required to conform to. Upon the entrance of the armies of either nation into the territories of the other, women and children, ecclesiastics, scholars of every faculty, cultivators of the earth, merchants, artisans, manufacturers, and fishermen, unarmed and inhabiting unfortified towns, villages, or places, and in general all persons whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments unmolested in their persons. Nor shall their houses or goods be burned or otherwise destroyed, nor their cattle taken, nor their fields wasted by the armed force into whose power, by the events of war, they may happen to fall; but if the necessity arise to take anything from them for the use of such armed force, the same shall be paid for at an equitable price. All churches, hospitals, schools, colleges, libraries, and other establishments for charitable and benefi-

cent purposes, shall be respected, and all persons connected with the same protected in the discharge of their duties and the pursuit of their vocations.

2. In order that the fate of prisoners of war may be alleviated, all such practices as those of sending them into distant, inclement, or unwholesome districts, or crowding them into close and noxious places, shall be studiously avoided. They shall not be confined in dungeons, prison-ships, or prisons; nor be put in irons, or bound, or otherwise restrained in the use of their limbs. The officers shall enjoy liberty on their paroles, within convenient districts, and have comfortable quarters; and the common soldiers shall be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are, for its own troops. But if any officer shall break his parole by leaving the district so assigned him, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual, officer, or other prisoner shall forfeit so much of the benefit of this article as provides for his liberty on parole or in cantonment. And if any officer so breaking his parole, or any common soldier so escaping from the limits assigned him, shall afterwards be found in arms, previously to his being regularly exchanged, the person so offending shall be dealt with according to the established laws of war. The officers shall be daily furnished by the party in whose power they are, with as many rations, and of the same articles, as are allowed, either in kind or by commutation, to officers of equal rank in its own army; and all others shall be daily furnished with such ration as is allowed to a common soldier in its own service: the value of all which supplies shall, at the close of the war, or at periods to be agreed upon between the respective commanders, be paid by the other party on a mutual adjustment of accounts for the subsistence of prisoners; and such accounts shall not be mingled with or set off against any others, nor the balance due on them be withheld, as a compensation or reprisal for any cause whatever, real or pretended. Each party shall be allowed to keep a commissary of prisoners, appointed by itself, with every cantonment of prisoners, in possession of the other; which commissary shall see the prisoners as often as he pleases; shall be allowed to receive, exempt from all duties or taxes, and to distribute, whatever comforts may be sent to them by their friends; and shall be free to transmit his reports in open letters to the party by whom he is employed.

And it is declared that neither the pretense that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending the solemn covenant contained in this article. On the contrary, the state of war is precisely that for which it is provided; and during which its stipulations are to be as sacredly observed as the most acknowledged obligations under the law of nature or nations.

ARTICLE XXIII.

This treaty shall be ratified by the president of the United States of America, by and with the advice and consent of the senate thereof; and by the president of the Mexican Republic, with the previous approbation of its general Congress; and the ratifications shall be exchanged in the city of Washington, or at the seat of government of Mexico, in four months from the date of the signature hereof, or sooner if practicable.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty of peace, friendship, limits, and settlement; and have hereunto affixed our seals respectively.

Done in quintuplicate, at the city of Guadalupe Hidalgo, on the second day of February, in the year of our Lord one thousand eight hundred and forty-eight.

N. P. TRIST,	[L. S.]
LUIS G. CUEVAS,	[L. S.]
BERNARDO COUTO,	[L. S.]
MIGL. ATRISTAN,	[L. S.]

And whereas the said treaty, as amended, has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Queretaro on the thirtieth day of May last, by Ambrose H. Sevier and Nathan Clifford, commissioners on the part of the government of the United States, and by Señor Don Luis de la Rosa, minister of relations of the Mexican Republic, on the part of that government:

Now, therefore, be it known, that I, James K. Polk, president of the United States of America, have caused the said treaty to be made public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

[L. S.] Done at the city of Washington, this fourth day of July, one thousand eight hundred and forty-eight, and of the Independence of the United States the seventy-third.

JAMES K. POLK.

By the President:

JAMES BUCHANAN, Secretary of State.

ARTICLES REFERRED TO IN THE FIFTEENTH ARTICLE OF THE PRECEDING TREATY.

FIRST AND FIFTH ARTICLES OF THE UNRATIFIED CONVENTION BETWEEN THE UNITED STATES AND THE MEXICAN REPUBLIC, OF THE TWENTIETH OF NOVEMBER, EIGHTEEN HUNDRED AND FORTY-THREE.

ARTICLE I.

All claims of citizens of the Mexican Republic against the government of the United States, which shall be presented in the manner and time hereinafter expressed, and all claims of citizens of the United States against the government of the Mexican Republic, which for whatever cause were not submitted to, nor considered nor finally decided by, the commission, nor by the arbiter appointed by the convention of eighteen hundred and thirty-nine, and which shall be presented in the manner and time hereinafter specified, shall be referred to four commissioners, who shall form a board, and shall be appointed in the following manner, that is to say: Two commissioners shall be appointed by the president of the Mexican Republic, and the other two by the president of the

United States, with the approbation and consent of the senate. The said commissioners, thus appointed, shall, in the presence of each other, take an oath to examine and decide impartially the claims submitted to them, and which may lawfully be considered, according to the proofs which shall be presented, the principles of right and justice, the law of nations, and the treaties between the two republics.

ARTICLE V.

All claims of citizens of the United States against the government of the Mexican Republic, which were considered by the commissioners, and referred to the umpire appointed under the convention of the eleventh of April, eighteen hundred and thirty-nine, and which were decided by him, shall be referred to, and decided by, the umpire to be appointed, as provided by this convention, on the points submitted to the umpire under the late convention, and his decision shall be final and conclusive. It is also agreed that, if the respective commissioners shall deem it expedient, they may submit to the said arbiter new arguments upon the said claims.

PROCLAMATION TO THE PEOPLE OF CALIFORNIA.

I.

PROCLAMATION,
CALLING A CONVENTION TO FORM A STATE CONSTITUTION FOR
CALIFORNIA.

Congress having failed, at its recent session, to provide a new government for this country, to replace that which existed on the annexation of California to the United States, the undersigned would call attention to the means which he deems best calculated to avoid the embarrassments of our present position.

The undersigned, in accordance with instructions from the secretary of war, has assumed the administration of civil affairs in California, not as a military governor, but as the executive of the existing civil government. In the absence of a properly appointed civil governor, the commanding officer of the department is, by the laws of California, ex officio civil governor of the country, and the instructions from Washington were based on the provisions of these laws. This subject has been misrepresented, or at least misconceived, and currency given to the impression that the government of the country is still military. Such is not the fact. The military government ended with the war, and what remains is the civil government recognized in the existing laws of California. Although the command of the troops in this department, and the administration of civil affairs in California, are, by the existing laws of the country, and the instructions of the president of the United States, temporarily lodged in the hands of the same individual, they are separate and distinct. No military officer, other than the commanding general of the department, exercises any civil authority by virtue of his military commission, and the powers of the commanding general, as ex officio governor, are only such as are defined and recognized in the existing laws. The instructions of the secretary of war make it the duty of all military officers to recognize the existing civil government, and to aid its officers with the military force under their control. Beyond this, any interference is not only uncalled for, but strictly forbidden.

The laws of California, not inconsistent with the laws, constitution, and treaties of the United States, are still in force, and must continue in force until changed by competent authority. Whatever may be thought of the right of the people to temporarily replace the officers of the existing government by others appointed by a provisional territorial legislature, there can be no question that the existing laws of the country must continue in force till replaced by others made and enacted by competent power. That power, by the treaty of peace, as well as from the nature of the case, is vested in Congress. The situation of California, in this respect, is very different from that of Oregon. The latter was without laws, while the former has a system of laws, which, though somewhat defective, and requiring many changes and amendments, must continue in force till repealed by competent legislative power. The situation of California is almost identical with that of Louisiana; and the decisions of the supreme court, in recognizing the validity of the laws which existed in that country previous to its annexation to the United States, were not inconsistent with the constitution

and laws of the United States, or repealed by legitimate legislative enactments, furnish us a clear and safe guide in our present situation. It is important that citizens should understand this fact, so as not to endanger their property and involve themselves in useless and expensive litigation, by giving countenance to persons claiming authority which is not given them by law, and by putting faith in laws which can never be recognized by legitimate courts.

As Congress has failed to organize a new territorial government, it becomes our imperative duty to take some active measures to provide for the existing wants of the country. This, it is thought, may be best accomplished by putting in full vigor the administration of the laws as they now exist, and completing the organization of the civil government, by the election and appointment of all officers recognized by law; while, at the same time, a convention, in which all parts of the territory are represented, shall meet and frame a state constitution, or a territorial organization, to be submitted to the people for their ratification, and then proposed to Congress for its approval. Considerable time will necessarily elapse before any new government can be legitimately organized and put in operation; in the interim, the existing government, if its organization be completed, will be found sufficient for all our temporary wants.

A brief summary of the organization of the present government may not be uninteresting. It consists: 1. Of a governor, appointed by the supreme government: in default of such appointment, the office is temporarily vested in the commanding military officer of the department. The powers and duties of the governor are of a limited character, but fully defined and pointed out by the laws. 2. A secretary, whose duties and powers are also properly defined. 3. A territorial or department legislature, with limited power to pass laws of a local character. 4. A superior court (tribunal superior) of the territory, consisting of four judges and a fiscal. 5. A prefect and sub-prefects for each district, who are charged with the preservation of public order and the execution of the laws; their duties correspond, in a great measure, with those of district marshals and sheriffs. 6. A judge of first instance for each district. This office is, by a custom not inconsistent with the laws, vested in the first alcalde of the district. 7. Alcaldes who have concurrent jurisdiction among themselves in the same district, but are subordinate to the higher judicial tribunals. 8. Local justices of the peace. 9. Ayuntamientos, or town councils. The powers and functions of all these officers are fully defined in the laws of this country, and are almost identical with those of the corresponding offices in the Atlantic and western states.

In order to complete this organization with the least possible delay, the undersigned, in virtue of power in him vested, does hereby appoint the first of August next as the day for holding a special election for delegates to a general convention, and for filling the offices of judges of the superior court, prefects and sub-prefects, and all vacancies in the offices of first alcalde (or judge of first instance), alcaldes, justices of the peace, and town councils. The judges of the superior court and district prefects are by law executive appointments, but being desirous that the wishes of the people should be fully consulted, the governor will appoint such persons as may receive the plurality of votes in their respective districts, provided they are competent and eligible to the office. Each district will therefore elect a prefect and two sub-prefects, and fill the vacancies in the offices of first alcalde (or judge of first instance) and of alcaldes. One judge

of the superior court will be elected in the districts of San Diego, Los Angeles and Santa Barbara; one in the district of San Luis Obispo and Monterey; one in the districts of San Jose and San Francisco; and one in the districts of Sonoma, Sacramento and San Joaquin. The salaries of the judges of the superior court, the prefects and judges of first instance, are regulated by the governor, but cannot exceed, for the first, four thousand dollars per annum, for the second, two thousand five hundred dollars, and for the third, one thousand five hundred dollars. These salaries will be paid out of the civil fund which has been formed from the proceeds of the customs, provided no instructions to the contrary are received from Washington. The law requires that the judges of the superior court meet within three months after its organization, and form a tariff of fees for the different territorial courts and legal officers, including all alcaldes, justices of the peace, sheriffs, constables, et cetera.

All local alcaldes, justices of the peace, and members of town councils elected at the special election, will continue in office till the first of January, one thousand eight hundred and fifty, when their places will be supplied by the persons who may be elected at the regular annual election, which takes place in November, at which time the election of members to the territorial assembly will also be held.

The general convention for forming a state constitution or a plan for territorial government, will consist of thirty-seven delegates, who will meet in Monterey on the first day of September next. These delegates will be chosen as follows:

The district of San Diego will elect two delegates, of Los Angeles four, of Santa Barbara two, of San Luis Obispo two, of Monterey five, of San Jose five, of San Francisco five, of Sonoma four, of Sacramento four, of San Joaquin four. Should any district think itself entitled to a greater number of delegates than the above named, it may elect supernumeraries, who, on the organization of the convention, will be admitted or not at the pleasure of that body.

The places for holding the election will be as follows: San Diego, San Juan Capistrano, Los Angeles, San Fernando, San Buenaventura, Santa Barbara, Nepoma, San Luis Obispo, Monterey, San Juan Baptiste, Santa Cruz, San Jose de Guadalupe, San Francisco, San Rafael, Bodega, Sonoma, Benicia (the places for holding election in the Sacramento and San Joaquin districts will be hereafter designated). The local alcaldes and members of the ayuntamientos or town councils, will act as judges and inspectors of elections. In case there should be less than three such judges and inspectors present at each of the places designated on the day of election, the people will appoint some competent person to fill the vacancies. The polls will be open from ten o'clock a. m. to four p. m., or until sunset, if the judges deem it necessary.

Every free male citizen of the United States and of Upper California, twenty-one years of age, and actually resident in the district where the vote is offered, will be entitled to the right of suffrage. All citizens of Lower California who have been forced to come to this territory on account of having rendered assistance to the American troops during the recent war with Mexico, should also be allowed to vote in the district where they actually reside.

Great care should be taken by the inspectors that votes are received only from bona fide citizens actually resident in the country. These judges and inspectors,

previous to entering upon the duties of their office, should take an oath faithfully and truly to perform these duties. The returns should state distinctly the number of votes received for each candidate, be signed by the inspectors, sealed, and immediately transmitted to the secretary of state for file in his office.

The following are the limits of the several districts:

1. The district of San Diego is bounded on the south by Lower California, on the west by the sea, on the north by the parallel of latitude including the Mission San Juan Capistrano, and on the east by the Colorado River.

2. The district of Los Angeles is bounded on the south by the district of San Diego, on the west by the sea, on the north by the Santa Clara River, and a parallel of latitude running from the headwaters of that river to the Colorado.

3. The district of Santa Barbara is bounded on the south by the district of Los Angeles, on the west by the sea, on the north by Santa Ynez River, and a parallel of latitude existing from the headwaters of that river to the summit of the Coast Range of mountains.

4. The district of San Luis Obispo is bounded on the south by the district of Santa Barbara, on the west by the sea, on the north by a parallel of latitude including San Miguel, and on the east by the Coast Range of mountains.

5. The district of Monterey is bounded on the south by the district of San Luis Obispo, and on the north and east by a line running east from New Year's Point to the summit of the Santa Clara range of mountains, thence along the summit of that range to the Arroya de los Leagas, and a parallel of latitude extending to the summit of the Coast Range, and along that range to the district of San Luis Obispo.

6. The district of San Jose is bounded on the north by the straits of Carquenas, the Bay of San Francisco, the arroya of San Francisco, and a parallel of latitude to the summit of Santa Clara Mountains, on the west and south by the Santa Clara Mountains and the district of Monterey, and on the east by the Coast Range.

7. The district of San Francisco is bounded on the west by the sea, on the south by the districts of San Jose and Monterey, and on the east and north by the Bay of San Francisco, including the islands in that bay.

8. The district of Sonoma includes all the country bounded by the sea, the bays of San Francisco and Suisun, the Sacramento River and Oregon.

9. The district of Sacramento is bounded on the north and west by the Sacramento River, on the east by the Sierra Nevada, and on the south by the Cosumnes River.

10. The district of San Joaquin includes all the country south of the Sacramento district, and lying between the Coast Range and the Sierra Nevada.

The method here indicated to attain what is desired by all, viz., a more perfect political organization, is deemed the most direct and safe that can be adopted, and one fully authorized by law. It is the course advised by the president, and by the secretaries of state and of war of the United States, and is calculated to avoid the innumerable evils which must necessarily result from any attempt at illegal local legislation. It is therefore hoped that it will meet the approbation of the people of California, and that all good citizens will unite in carrying it into execution.

Given at Monterey, California, this third day of June, anno Domini one thousand eight hundred and forty-nine.

B. RILEY,

Brevet Brig. Gen. U. S. A., and Governor of California.

Official: H. W. HALLECK,

Brevet Capt. and Secretary of State.

II.

PROCLAMATION TO THE PEOPLE OF CALIFORNIA.

The delegates of the people assembled in convention have formed a constitution, which is now presented for your ratification. The time and manner of voting on this constitution, and of holding the first general election, are clearly set forth in the schedule; the whole subject is therefore left for your unbiased and deliberate consideration.

The prefect (or person exercising the functions of that office) of each district will designate the places for opening the polls, and give due notice of the election, in accordance with the provisions of the constitution and schedule.

The people are now called upon to form a government for themselves, and to designate such officers as they desire to make and execute the laws. That their choice may be wisely made, and that the government so organized may secure the permanent welfare and happiness of the people of the new state, is the sincere and earnest wish of the present executive, who, if the constitution be ratified, will, with pleasure, surrender his powers to whomsoever the people may designate as his successor.

Given at Monterey, California, this twelfth day of October, anno Domini eighteen hundred and forty-nine.

B. RILEY,

Bvt. Brig. Gen'l U. S. A., and Governor of California.

Official: H. W. HALLECK,

Brev. Capt. and Secretary of State.

III.

PROCLAMATION TO THE PEOPLE OF CALIFORNIA.

A new executive having been elected and installed into office, in accordance with the provisions of the constitution of the state, the undersigned hereby resigns his powers as governor of California. In thus dissolving his official connection with the people of this country, he would tender to them his heartfelt thanks for their many kind attentions, and for the uniform support which they have given to the measures of his administration. The principal object of all his wishes is now accomplished—the people have a government of their own choice, and one which, under the favor of Divine Providence, will secure their own prosperity and happiness, and the permanent welfare of the new state.

Given at San Jose, California, this twentieth day of December, anno Domini eighteen hundred and forty-nine.

B. RILEY,

Brevet Brigadier-General U. S. A., and Governor of California.

By the Governor: H. W. HALLECK,

Brevet Captain and Secretary of State.

[ORDERS, No. 41.]

HEADQUARTERS TENTH MILITARY DEPARTMENT,
San Jose, California, Dec. 20, 1849.

The brigadier-general commanding the department has this day relinquished the administration of civil affairs in California, to the execution of the government organized under the provisions of the constitution, ratified by the people of California at the recent general election.

Brevet Captain H. W. Halleek, corps of engineers, is relieved from duty as secretary of state.

By order of GENERAL RILEY.

ED. U. S. CANBY, Assistant Adjutant-General.

CONSTITUTION OF THE STATE OF CALIFORNIA.

Adopted by the Convention, October 10, 1849.

Ratified by the People, November 13, 1849.

Proclaimed, December 20, 1849.

Amended, November 4, 1856, and September 3, 1862.

We, the people of California, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this constitution.

ARTICLE I.**DECLARATION OF RIGHTS.**

§ 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property; and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people; and they have the right to alter or reform the same, whenever the public good may require it.

§ 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the state.

§ 5. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

§ 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

§ 7. All persons shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident or the presumption great.

§ 8. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this state may keep with the consent of Congress in time of peace, and in cases of petit larceny under the regulation of the legislature) unless on presentment or indictment of a grand jury; and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

§ 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

§ 10. The people shall have the right freely to assemble together, to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this state in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

§ 13. No soldier shall in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

§ 14. Representation shall be apportioned according to population.

§ 15. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

§ 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

§ 17. Foreigners who are or who may hereafter become bona fide residents of this state shall enjoy the same rights, in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.

§ 18. Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state.

§ 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

§ 20. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 21. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

§ 1. Every white male citizen of the United States, and every white male citizen of Mexico who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the thirtieth day of May, eighteen hundred and forty-eight, of the age of twenty-one years, who shall have been a resident of the state six months next preceeding the election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law: provided, that nothing herein contained shall be construed to prevent the legislature, by a two thirds concurrent vote, from admitting to the right of suffrage Indians, or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper.

§ 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

§ 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

§ 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this state or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

§ 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

§ 6. All elections by the people shall be by ballot.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of the state of California shall be divided into three separate departments—the legislative, the executive, and judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power of this state shall be vested in a senate and assembly, which shall be designated the legislature of the state of California: and

the enacting clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows:"

§ 2. The sessions of the legislature shall be biennial, and shall commence on the first Monday of December next ensuing the election of its members, unless the governor of the state shall in the interim convene the legislature by proclamation. No session shall continue longer than one hundred and twenty days. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 3. The members of the assembly shall be chosen biennially, by the qualified electors of their respective districts, on the first Wednesday in September, unless otherwise ordered by the legislature, and their term of office shall be two years. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 4. Senators and members of assembly shall be duly qualified electors in the respective counties and districts which they represent.

§ 5. Senators shall be chosen for the term of four years, at the same time and places as members of assembly; and no person shall be a member of the senate or assembly who has not been a citizen and inhabitant of the state, and of the county, or district for which he shall be chosen, one year next before his election. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 6. The number of senators shall not be less than one third, nor more than one half, of that of the members of assembly; and at the first session of the legislature after this section takes effect the senators shall be divided by lot, as equally as may be, into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, so that one half shall be chosen biennially. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 7. When the number of senators is increased, they shall be apportioned by lot, so as to keep the two classes as nearly equal in number as possible.

§ 8. Each house shall choose its own officers, and judge of the qualifications, elections, and returns of its own members.

§ 9. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

§ 10. Each house shall determine the rules of its own proceedings, and may, with the concurrence of two thirds of all the members elected, expel a member.

§ 11. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

§ 12. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

§ 13. When vacancies occur in either house, the governor, or the person exercising the functions of the governor, shall issue writs of elections to fill such vacancies.

§ 14. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

§ 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they be sitting.

§ 16. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended in the other.

§ 17. Every bill which may have passed the legislature, shall, before it becomes a law, be presented to the governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon the journal, and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two thirds of the members of each house present, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law, in like manner as if he had signed it, unless the legislature, by adjournment, prevent such return.

§ 18. The assembly shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two thirds of the members present.

§ 19. The governor, lieutenant-governor, secretary of state, controller, treasurer, attorney-general, surveyor-general, justices of the supreme court, and judges of the district courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the state; but the party convicted or acquitted shall, nevertheless, be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanors in office, in such a manner as the legislature may provide.

§ 20. No senator or member of assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

§ 21. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this state; provided, that officers in the militia, to which there is attached no annual salary, or local officers and postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed lucrative.

§ 22. No person who shall be convicted of the embezzlement or defalcation of the public funds of this state shall ever be eligible to any office of honor, trust or profit, under this state; and the legislature shall, as soon as practicable, pass a law providing for the punishment of such embezzlement, or defalcation, as a felony.

§ 23. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws at every regular session of the legislature.

§ 24. The members of the legislature shall receive for their services a com-

pensation to be fixed by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected.

§ 25. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title; and no law shall be revised or amended by reference to its title; but in such case the act revised or section amended shall be re-enacted and published at length.

§ 26. No divorce shall be granted by the legislature.

§ 27. No lottery shall be authorized by this state, nor shall the sale of lottery tickets be allowed.

§ 28. The enumeration of the inhabitants of this state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and fifty-two, and one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States, in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both houses of the legislature.

§ 29. The number of senators and members of assembly shall, at the first session of the legislature holden after the enumeration herein provided for and made, be fixed by the legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of members of assembly shall not be less than twenty-four, nor more than thirty-six, until the number of inhabitants within this state shall amount to one hundred thousand; and after that period at such ratio that the whole number of members of assembly shall never be less than thirty, nor more than eighty.

§ 30. When a congressional, senatorial, or assembly district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county shall be divided, in forming a congressional, senatorial, or assembly district, so as to attach one portion of a county to another county; but the legislature may divide each county into as many congressional, senatorial or assembly districts as such county may by apportionment be entitled to. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 31. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

§ 32. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 33. The term "corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

§ 34. The legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed, under general laws, for the deposit of gold and silver; but no such association shall make, issue, or put in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.

§ 35. The legislature of this state shall prohibit by law any person or persons, association, company, or corporation from exercising the privileges of banking, or creating paper to circulate as money.

§ 36. Each stockholder of a corporation or joint-stock association shall be individually and personally liable for his proportion of all its debts and liabilities.

§ 37. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.

§ 38. In all elections by the legislature, the members thereof shall vote viva voce, and the votes shall be entered on the journal.

§ 39. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to article four by the legislature of eighteen hundred and sixty-one, no officer shall be suspended or superseded thereby, until the election and qualification of the several officers provided for in said amendments. [Amendment, proposed 1861; ratified 3d September, 1862.]

ARTICLE V.

EXECUTIVE DEPARTMENT.

§ 1. The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the governor of the state of California.

§ 2. The governor shall be elected by the qualified electors at the time and places of voting for members of the assembly, and shall hold his office four years from and after the first Monday in December subsequent to his election, and until his successor is elected and qualified. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 3. No person shall be eligible to the office of governor (except at the first election) who has not been a citizen of the United States and a resident of this state two years next preceeding the election, and attained the age of twenty-five years at the time of said election.

§ 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the assembly, who shall, during the first week of the session, open and publish them in presence of both houses of the legislature. The person having the highest number of votes shall be governor; but in case any two or more have an equal and the highest number of votes, the legislature shall, by joint vote of both houses, choose one of said persons so having an equal and the highest number of votes, for governor.

§ 5. The governor shall be commander-in-chief of the militia, the army, and navy of this state.

§ 6. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

§ 7. He shall see that the laws are faithfully executed.

§ 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislature, or at the next election by the people.

§ 9. He may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

§ 10. He shall communicate by message to the legislature, at every session, the condition of the state, and recommend such matters as he shall deem expedient.

§ 11. In case of a disagreement between the two houses with respect to the time of adjournment the governor shall have power to adjourn the legislature to such time as he may think proper; provided it be not beyond the time fixed for the meeting of the next legislature.

§ 12. No person shall, while holding any office under the United States or this state, exercise the office of governor, except as hereinafter expressly provided.

§ 13. The governor shall have the power to grant reprieves and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the pardon or reprieve.

§ 14. There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of California."

§ 15. All grants and commissions shall be in the name and by the authority of the people of the state of California, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

§ 16. A lieutenant-governor shall be elected at the same time and places, and in the same manner as the governor; and his term of office and his qualifications of eligibility shall also be the same. He shall be president of the senate, but shall only have a casting vote therein. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the state, the president of the senate shall act as governor until the vacancy be filled or the disability shall cease.

§ 17. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. But when the governor shall, with the consent of the legislature, be

out of the state in time of war, at the head of any military force thereof, he shall continue commander-in-chief of all the military forces of the state.

§ 18. A secretary of state, a controller, a treasurer, an attorney-general, and a surveyor-general shall be elected at the same time and places, and in the same manner, as the governor and lieutenant-governor, and whose term of office shall be the same as the governor. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 19. The secretary of state shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as may be assigned him by law; and in order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article five by the legislature of eighteen hundred and sixty-one, no officer shall be superseded or suspended thereby, until the election and qualification of the several officers provided for in said amendments. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 20. The controller, treasurer, attorney-general, and surveyor-general shall be chosen by joint vote of the two houses of the legislature, at their first session under this constitution, and thereafter shall be elected at the same time and places, and in the same manner, as the governor and lieutenant-governor.

§ 21. The governor, lieutenant-governor, secretary of state, controller, treasurer, attorney-general, and surveyor-general shall each, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected; but neither of these officers shall receive for his own use any fees for the performance of his official duties.

ARTICLE VI.

JUDICIAL DEPARTMENT.

§ 1. The judicial power of this state shall be vested in a supreme court, in district courts, in county courts, in probate courts, and in justices of the peace, and in such recorders and other inferior courts as the legislature may establish in any incorporated city or town. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 2. The supreme court shall consist of a chief justice and four associate justices. The presence of three justices shall be necessary for the transaction of business, excepting such business as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 3. The justices of the supreme court shall be elected by the qualified electors of the state at special elections to be provided by law, at which elections no officer other than judicial shall be elected, except a superintendent of public instruction. The first election for justices of the supreme court shall be held in the year eighteen hundred and sixty-three. The justices shall hold their offices for the term of ten years from the first day of January next after their election, except those elected at the first election, who, at their first meeting, shall so classify

themselves by lot, that one justice shall go out of office every two years. The justice having the shortest term to serve shall be the chief justice. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 4. The supreme court shall have appellate jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars; also, in all cases arising in the probate courts; and also in all criminal cases amounting to felony, on questions of law alone. The court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and also, all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the state, upon petition on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court, or any county court in the state, or before any judge of said courts. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 5. The state shall be divided, by the legislature of eighteen hundred and sixty-three, into fourteen judicial districts, subject to such alteration, from time to time, by a two-thirds vote of all the members elected to both houses, as the public good may require; in each of which there shall be a district court, and for each of which a district judge shall be elected by the qualified electors of the district, at the special judicial elections to be held as provided for the election of justices of the supreme court by section three of this article. The district judges shall hold their offices for the term of six years from the first day of January next after their election. The legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the state for upwards of thirty consecutive days shall be deemed to have forfeited his office. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 6. The district courts shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars; and also in all criminal cases not otherwise provided for. The district courts and their judges shall have power to issue writs of habeas corpus, on petition by or on behalf of any person held in actual custody in their respective districts. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 7. There shall be in each of the organized counties of the state, a county court, for each of which a county judge shall be elected by the qualified electors of the county, at the special judicial elections to be held as provided for the election of justices of the supreme court by section three of this article. The county judges shall hold their offices for the term of four years from the first day of January next after their election. Said courts shall also have power to issue naturalization papers. In the city and county of San Francisco, the legislature may separate the office of probate judge from that of county judge, and

may provide for the election of a probate judge, who shall hold his office for the term of four years. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 8. The county courts shall have original jurisdiction of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, and of all such special cases and proceedings as are not otherwise provided for; and also such criminal jurisdiction as the legislature may prescribe; they shall also have appellate jurisdiction in all cases arising in courts held by justices of the peace and recorders, and in such inferior courts as may be established in pursuance of section one of this article, in their respective counties. The county judges shall also hold in their several counties probate courts, and perform such duties as probate judges as may be prescribed by law. The county courts and their judges shall also have power to issue writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 9. The legislature shall determine the number of justices of the peace to be elected in each city and township of the state, and fix by law their powers, duties, and responsibilities; provided, such powers shall not in any case trench upon the jurisdiction of the several courts of record. The supreme court, the district courts, county courts, the probate courts, and such other courts as the legislature shall prescribe, shall be courts of record. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 10. The legislature shall fix by law the jurisdiction of any recorder's, or other inferior municipal court which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 11. The legislature shall provide for the election of a clerk of the supreme court, county clerks, district attorneys, sheriffs, and other necessary officers, and shall fix by law their duties and compensation. County clerks shall be ex officio clerks of the courts of record in and for their respective counties. The legislature may also provide for the appointment by the several district courts of one or more commissioners in the several counties of their respective districts, with authority to perform chamber business of the judges of the district courts and county courts, and also to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 12. The times and places of holding the terms of the several courts of record shall be provided for by law. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 13. No judicial officer, except justices of the peace, recorders, and commissioners, shall receive to his own use any fees or perquisites of office. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 14. The legislature shall provide for the speedy publication of such opinions of the supreme court as it may deem expedient; and all opinions shall be free for publication by any person. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 15. The justices of the supreme court, district judges, and county judges shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected: provided, that county judges shall be paid out of the county treasury of their respective counties. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 16. The justices of the supreme court, and the district judges, and the county judges, shall be ineligible to any other office than a judicial office during the term for which they shall have been elected. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 18. The style of all process shall be: "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 19. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article six by the legislature of eighteen hundred and sixty-one, no officer shall be superseded thereby, nor shall the organization of the several courts be changed thereby, until the election and qualification of the several officers provided for in said amendments. [Amendment, proposed 1861; ratified 3d September, 1862.]

ARTICLE VII.

MILITIA.

§ 1. The legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the constitution and laws of the United States.

§ 2. Officers of the militia shall be elected or appointed in such a manner as the legislature shall from time to time direct, and shall be commissioned by the governor.

§ 3. The governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrections, and repel invasions.

ARTICLE VIII.

STATE DEBTS.

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly, or in the aggregate, with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorized by some law for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability, as it falls due, and also, to pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and have

received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law shall be applied only to the specified object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one be published therein, throughout the state, for three months next preceeding the election at which it is submitted to the people.

ARTICLE IX.

EDUCATION.

§ 1. A superintendent of public instruction shall, at the special election for judicial officers to be held in the year eighteen hundred and sixty-three, and every four years thereafter, at such special elections, be elected by the qualified voters of the state, and shall enter upon the duties of his office on the first day of September next after his election. [Amendment, proposed 1861; ratified 3d September, 1862.]

§ 2. The legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that may be granted by the United States to this state for the support of schools which may be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress distributing the proceeds of the public lands among the several states of the Union approved anno Domini eighteen hundred and forty-one; and all estates of deceased persons who may have died without leaving a will or heir, and also such per centum as may be granted by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the state.

§ 3. The legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each district at least three months in every year; and any school district neglecting to keep and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

§ 4. The legislature shall take measures for the protection, improvement, or other disposition of such lands as may have been or may hereafter be reserved or granted by the United States, or any person or persons, to this state for the use of a university; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

ARTICLE X.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

§ 1. Any amendment or amendments to this constitution, may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of

the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution.

§ 2. And if, at any time, two thirds of the senate and assembly shall think it necessary to revise or change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature. The constitution that may have been agreed upon and adopted by such convention, shall be submitted to the people, at a special election, to be provided for by law, for their ratification or rejection; each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written or printed the words "For the New Constitution," or "Against the New Constitution." The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the state, who shall call to his assistance the controller, treasurer, and secretary of state, and compare the votes so certified to him. If, by such examination, it be ascertained that a majority of the whole number of votes cast at such election, be in favor of such new constitution, the executive of this state shall, by his proclamation, declare such new constitution to be the constitution of the state of California. [Amendment, proposed 1855; ratified 4th November, 1856.]

ARTICLE XI.

PROMISCUOUS PROVISIONS.

§ 1. The first session of the legislature shall be held at the Pueblo de San Jose; which place shall be the permanent seat of government, until removed by law; provided, however, that two thirds of all the members elected to each house of the legislature shall concur in the passage of such law.

§ 2. Any citizen of this state who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this state or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this constitution.

§ 3. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter

on the duties of their respective offices, take and subscribe the following oath or affirmation:

“I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of California, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability.”

And no other oath, declaration, or test, shall be required as qualification for any office or public trust.

§ 4. The legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the state.

§ 5. The legislature shall have power to provide for the election of a board of supervisors in each county; and these supervisors shall, jointly and individually, perform such duties as may be prescribed by law.

§ 6. All officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the legislature may direct.

§ 7. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office, not fixed by this constitution, ever exceed four years.

§ 8. The fiscal year shall commence on the first day of July.

§ 9. Each county, town, city, and incorporated village shall make provision for the support of its own officers, subject to such restrictions and regulations as the legislature may prescribe.

§ 10. The credit of the state shall not, in any manner, be given or loaned to or in aid of any individual, association, or corporation; nor shall the state directly or indirectly become a stockholder in any association or corporation.

§ 11. Suits may be brought against the state in such manner and in such courts as shall be directed by law.

§ 12. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

§ 13. Taxation shall be equal and uniform throughout the state. All property in this state shall be taxed in proportion to its value, to be ascertained as directed by law; but assessors and collectors of town, county, and state taxes, shall be elected by the qualified electors of the district, county, or town in which the property taxed for state, county, or town purposes is situated.

§ 14. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

§ 15. The legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.

§ 16. No perpetuities shall be allowed except for eleemosynary purposes.

§ 17. Every person shall be disqualified from holding any office of profit in this state who shall have been convicted of having given, or offered a bribe, to procure his election or appointment.

§ 18. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

§ 19. Absence from this state on business of the state, or of the United States, shall not affect the question of residence of any person.

§ 20. A plurality of the votes given at an election shall constitute a choice, where not otherwise directed in this constitution.

§ 21. All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish.

ARTICLE XII.

BOUNDARY.

The boundary of the state of California shall be as follows:

Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of the said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line in a southeasterly direction to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river, to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, eighteen hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also all the islands, harbors, and bays, along and adjacent to the Pacific Coast.

SCHEDULE.

§ 1. All rights, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this constitution and not inconsistent therewith, until altered or repealed by the legislature, shall continue as if the same had not been adopted.

§ 2. The legislature shall provide for the removal of all causes which may be pending when this constitution goes into effect, to courts created by the same.

§ 3. In order that no inconvenience may result to the public service, from the taking effect of this constitution, no officer shall be superseded thereby, nor the laws relative to the duties of the several officers be changed, until the entering into office of the new officers to be appointed under this constitution.

§ 4. The provisions of this constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned shall not be

held to apply to officers chosen by the people at the first election, or by the legislature at its first session.

§ 5. Every citizen of California, declared a legal voter by this constitution, and every citizen of the United States a resident of this state on the day of election, shall be entitled to vote at the first general election under this constitution, and on the question of the adoption thereof.

§ 6. This constitution shall be submitted to the people, for their ratification or rejection, at the general election to be held on Tuesday, the thirteenth day of November next. The executive of the existing government of California is hereby requested to issue a proclamation to the people, directing the prefects of the several districts, or in case of vacancy, the subprefects, or senior judge of first instance, to cause such election to be held, the day aforesaid, in the respective districts. The election shall be conducted in the manner which was prescribed for the election of delegates to this convention, except that the prefect, subprefect, or senior judge of first instance, ordering such election in each district, shall have power to designate any additional number of places for opening the polls, and that, in every place of holding the election, a regular poll-list shall be kept by the judges and inspectors of election. It shall also be the duty of these judges and inspectors of election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion, by depositing in the ballot-box a ticket, whereon shall be written, or printed, "For the Constitution," or "Against the Constitution," or some such words as will distinctly convey the intention of the voter. These judges and inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election, the judges and inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the prefect, subprefect, or senior judge of first instance, as the case may be, of their respective districts; and said prefect, subprefect, or senior judge of first instance shall transmit one of the same, by the most safe and rapid conveyance, to the secretary of state. Upon the receipt of said returns, or on the tenth day of December next, if the returns be not sooner received, it shall be the duty of a board of canvassers, to consist of the secretary of state, one of the judges of the superior court, the prefect, judge of first instance, and an alcalde of the district of Monterey, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the executive will also, immediately after ascertaining that the constitution has been ratified by the people, make proclamation of the fact; and thenceforth this constitution shall be ordained and established as the constitution of California.

§ 7. If this constitution shall be ratified by the people of California, the executive of the existing government is hereby requested immediately after the same shall be ascertained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the president of the United States, in order that he may lay it before the Congress of the United States.

§ 8. At the general election aforesaid, viz., the thirteenth day of November next, there shall be elected a governor, lieutenant-governor, members of the legislature, and also two members of Congress.

§ 9. If this constitution shall be ratified by the people of California, the legislature shall assemble at the seat of government on the fifteenth day of December next; and in order to complete the organization of that body, the senate shall elect a president pro tempore, until the lieutenant-governor shall be installed into office.

§ 10. On the organization of the legislature, it shall be the duty of the secretary of state to lay before each house a copy of the abstract made by the board of canvassers, and, if called for, the original returns of election, in order that each house may judge of the correctness of the report of said board of canvassers.

§ 11. The legislature, at its first session, shall elect such officers as may be ordered by this constitution, to be elected by that body, and within four days after its organization, proceed to elect two senators to the Congress of the United States. But no law passed by this legislature shall take effect until signed by the governor after his installation into office.

§ 12. The senators and representatives to the Congress of the United States, elected by the legislature and people of California, as herein directed, shall be furnished with certified copies of this constitution, when ratified, which they shall lay before the Congress of the United States, requesting, in the name of the people of California, the admission of the state of California into the American Union.

§ 13. All officers of this state, other than members of the legislature, shall be installed into office on the fifteenth day of December next, or as soon thereafter as practicable.

§ 14. Until the legislature shall divide the state into counties, and senatorial and assembly districts, as directed by this constitution, the following shall be the apportionment of the two houses of the legislature, viz.: The districts of San Diego and Los Angeles shall jointly elect two senators; the districts of Santa Barbara and San Luis Obispo shall jointly elect one senator; the district of Monterey, one senator; the district of San Jose, one senator; the district of San Francisco, two senators; the district of Sonoma, one senator; the district of Sacramento, four senators; and the district of San Joaquin, four senators. And the district of San Diego shall elect one member of assembly; the district of Los Angeles, two members of assembly; the district of Santa Barbara, two members of assembly; the district of San Luis Obispo, one member of assembly; the district of Monterey, two members of assembly; the district of San Jose, three members of assembly; the district of San Francisco, five members of assembly; the district of Sonoma, two members of assembly; the district of Sacramento, nine members of assembly; and the district of San Joaquin, nine members of assembly.

§ 15. Until the legislature shall otherwise direct, in accordance with the provisions of this constitution, the salary of the governor shall be ten thousand dollars per annum; and the salary of the lieutenant-governor shall be double the pay of a state senator; and the pay of members of the legislature shall be sixteen dollars per diem, while in attendance, and sixteen dollars for every twenty miles' travel by the usual route from their residences to the place of holding the session of the legislature, and in returning therefrom. And the legislature shall fix

the salaries of all officers, other than those elected by the people, at the first election.

§ 16. The limitation of the powers of the legislature, contained in article eight of this constitution, shall not extend to the first legislature elected under the same, which is hereby authorized to negotiate for such amount as may be necessary to pay the expenses of the state government.

R. SEMPLE,

President of the convention, and delegate from Benicia.

WM. G. MARCY, Secretary.

J. ARAM,
C. T. BOTTS,
E. BROWN,
J. A. CARRILLO,
J. M. COVARRUBIAS,
E. O. CROSBY,
P. DE LA GUERRA,
L. DENT,
M. DOMINGUEZ,
K. H. DIMMICK,
A. J. ELLIS,
S. C. FOSTER,
E. GILBERT,
W. M. GWIN,
H. W. HALLECK,
JULIAN HANKS,

L. W. HASTINGS,
HENRY HILL,
J. HOBSON,
J. McH. HOLLINSWORTH,
J. M. JONES,
J. D. HOPPE,
T. O. LARKIN,
FRANCIS J. LIPPITT,
B. S. LIPPINCOTT,
M. M. McCARVER,
JOHN McDOUGAL,
B. F. MOORE,
MYRON NORTON,
P. ORD,
MIGUEL PEDRORENA,
A. M. PICO,

R. M. PRICE,
HUGO REID,
JACINTO RODRIGUEZ,
PEDRO SANSEVAINE,
W. E. SHANNON,
W. S. SHERWOOD,
J. R. SNYDER,
A. STEARNS,
W. M. STEUART,
J. A. SUTTER,
HENRY A. TEFFT,
S. L. VERMEULE,
M. G. VALLEJO,
J. WALKER,
O. M. WOZENCRAFT.

ACT OF ADMISSION.

AN ACT

FOR THE ADMISSION OF THE STATE OF CALIFORNIA INTO THE UNION.

Whereas, the people of California have presented a constitution, and asked admission into the Union, which constitution was submitted to Congress by the president of the United States, by message, dated February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government:—

Be it enacted by the senate and house of representatives of the United States of America, in Congress assembled, That the state of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

§ 2. And be it further enacted, That, until the representatives in Congress shall be apportioned, according to an actual enumeration of the inhabitants of the United States, the state of California shall be entitled to two representatives in Congress.

§ 3. And be it further enacted, That the said state of California is admitted into the Union upon the express condition that the people of said state, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax, or assessment of

any description whatsoever, upon the public domain of the United States, and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said state shall be common highways, and forever free, as well to the inhabitants of said state as to the citizens of the United States, without any tax, impost or duty therefor; provided, that nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that state.

Approved, September ninth, eighteen hundred and fifty.

CONSTITUTION OF THE STATE OF CALIFORNIA.

Adopted March 3, 1879.

Ratified May 17, 1879.

In force July 4, 1879.

PREAMBLE.

We, the people of the state of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

§ 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

§ 3. The state of California is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this state; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

§ 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

§ 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishment be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

§ 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases not amounting to a felony, by the consent of both parties, expressed in open court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.

§ 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county.

§ 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers, shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

§ 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this state in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

§ 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. The legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses, in criminal cases other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

§ 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascer-

tained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law.

§ 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of wilful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

§ 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts, shall ever be passed.

§ 17. Foreigners of the white race, or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this state, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of all property, other than real estate, as native born citizens; provided, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; and provided further, that the legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise. [Amendment adopted November 6, 1894.]

§ 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

§ 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

§ 20. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 21. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislature, nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

§ 22. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

§ 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

§ 24. No property qualifications shall ever be required for any person to vote or hold office.

ARTICLE II.

RIGHT OF SUFFRAGE.

§ 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been resident of the state one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct

thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the constitution in the English language and write his name, shall ever exercise the privileges of an elector in this state; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age and upwards at the time this amendment shall take effect. [Amendment adopted November 6, 1894.]

§ 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

§ 2½. The legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties at elections known and designated as primary elections. Also to determine the tests and conditions upon which electors, political parties, or organizations of voters, may participate in any such primary election, which tests or conditions may be different from the tests and conditions required and permitted at other elections authorized by law; or the legislature may delegate the power to determine such tests or conditions, at primary elections, to the various political parties participating therein. It shall also be lawful for the legislature to prescribe that any such primary election law shall be obligatory and mandatory in any city, or any city and county, or in any county, or in any political subdivision, of a designated population, and that such law shall be optional in any city, city and county, county, or political subdivision of a lesser population, and for such purpose such law may declare the population of any city, city and county, county, or political subdivision, and may also provide what, if any, compensation primary election officers in defined places or political subdivisions may receive, without making compensation either general or uniform. [Amendment adopted November 6, 1900.]

§ 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

§ 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept in any almshouse or other asylum, at public expense; nor while confined in any public prison.

§ 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; provided, that secrecy in voting be preserved. [Amendment adopted November 3, 1896.]

§ 6. The inhibitions of this constitution to the contrary notwithstanding, the legislature shall have power to provide that in different parts of the state different methods may be employed for receiving and registering the will of the people as expressed at elections, and may provide that mechanical devices may be used

within designated subdivisions of the state at the option of the local authority indicated by the legislature for that purpose. [New section, adopted November 4, 1902.]

ARTICLE III.

DISTRIBUTION OF POWERS.

§ 1. The powers of the government of the state of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power of this state shall be vested in a senate and assembly, which shall be designated the legislature of the state of California; and the enacting clause of every law shall be as follows: “The People of the state of California, represented in senate and assembly, do enact as follows.”

§ 2. The sessions of the legislature shall commence at twelve o'clock m. on the first Monday after the first day of January next succeeding the election of its members, and after the election held in the year eighteen hundred and eighty shall be biennial, unless the governor shall, in the interim, convene the legislature by proclamation. No pay shall be allowed to members for a longer time than sixty days, except for the first session after the adoption of this constitution, for which they may be allowed pay for one hundred days. And no bill shall be introduced in either house after the expiration of ninety days from the commencement of the first session, nor after fifty days after the commencement of each succeeding session, without the consent of two thirds of the members thereof.

§ 3. Members of the assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the assembly, after the adoption of this constitution, shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter members of the assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the legislature.

§ 4. Senators shall be chosen for the term of four years, at the same time and places as members of the assembly, and no person shall be a member of the senate or assembly who has not been a citizen and inhabitant of the state three years, and of the district for which he shall be chosen one year, next before his election.

§ 5. The senate shall consist of forty members, and the assembly of eighty members, to be elected by districts, numbered as hereinafter provided. The seats of the twenty senators elected in the year eighteen hundred and eighty-two from the odd-numbered districts shall be vacated at the expiration of the second year, so that one half of the senators shall be elected every two years; provided,

that all the senators elected at the first election under this constitution shall hold office for the term of three years.

§ 6. For the purpose of choosing members of the legislature, the state shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one senator, and each assembly district shall choose one member of assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty in the same order, commencing at the northern boundary of the state and ending at the southern boundary thereof. In the formation of such districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the Congress of the United States in the year one thousand eight hundred and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the legislature shall, at its first session after each census, adjust such districts and re-apportion the representation so as to preserve them as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, senators and assemblymen shall be elected by the districts according to the apportionment now provided for by law.

§ 7. Each house shall choose its officers, and judge of the qualifications, elections, and returns of its members.

§ 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

§ 9. Each house shall determine the rule of its proceeding, and may, with the concurrence of two thirds of all the members elected, expel a member.

§ 10. Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journal.

§ 11. Members of the legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

§ 12. When vacancies occur in either house, the governor, or the person exercising the functions of the governor, shall issue writs of election to fill such vacancies.

§ 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

§ 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting.

Nor shall the members of either house draw pay for any recess or adjournment for a longer time than three days.

§ 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each house, unless, in case of urgency, two thirds of the house where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either house, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the journal, and no bill shall become a law without the concurrence of a majority of the members elected to each house.

§ 16. Every bill which may have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter such objections upon the journal and proceed to reconsider it. If, after such reconsideration, it again passes both houses, by yeas and nays, two thirds of the members elected to each house voting therefor, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the legislature, by adjournment, prevent such return, in which case it shall not become a law, unless the governor, within ten days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the secretary of state, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriations so objected to shall not take effect unless passed over the governor's veto, as hereinbefore provided. If the legislature be in session, the governor shall transmit to the house in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the governor.

§ 17. The assembly shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members elected.

§ 18. The governor, lieutenant-governor, secretary of state, controller, treasurer, attorney-general, surveyor-general, chief justice and associate justices of the supreme court, and judges of the superior courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the state; but the party convicted or acquitted shall, nevertheless, be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the legislature may provide.

§ 19. No senator or member of assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state which shall have been created, or the emoluments of which have been increased, during such term, except such offices as may be filled by election by the people.

§ 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this state; provided, that officers in the militia who receive no annual salary, local officers, or postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

§ 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any state, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this state, and the legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

§ 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the controller; and no money shall ever be appropriated or drawn from the state treasury for the use or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the state as a state institution, nor shall any grant or donation of property ever be made thereto by the state; provided, that notwithstanding anything contained in this or any other section of this constitution, the legislature shall have the power to grant aid to institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; provided further, that the state shall have at any time the right to inquire into the management of such institution; provided further, that whenever any county, or city and county, or city, or town shall provide for support of minor orphans, or half-orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the legislature.

§ 23. The members of the legislature shall receive for their services a per diem and mileage, to be fixed by law, and paid out of the public treasury; such per diem shall not exceed eight dollars, and such mileage shall not exceed ten cents per mile, and for contingent expenses not exceeding twenty-five dollars for each session. No increase in compensation or mileage shall take effect during the term for which the members of either house shall have been elected, and the pay of no attaché shall be increased after he is elected or appointed.

§ 24. Every act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in its title, such act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or

amended by reference to its title; but in such case the act revised or section amended shall be re-enacted and published at length as revised or amended; and all laws of the state of California, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

§ 25. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

First—Regulating the jurisdiction and duties of justices of the peace, police judges, and of constables.

Second—For the punishment of crimes and misdemeanors.

Third—Regulating the practice of courts of justice.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plots, parks, cemeteries, graveyards, or public grounds not owned by the state.

Eighth—Summoning and impaneling grand and petit juries, and providing for their compensation.

Ninth—Regulating county and township business, or the election of county and township officers.

Tenth—For the assessment or collection of taxes.

Eleventh—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

Twelfth—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Thirteenth—Extending the time for the collection of taxes.

Fourteenth—Giving effect to invalid deeds, wills, or other instruments.

Fifteenth—Refunding money paid into the state treasury.

Sixteenth—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligations of any corporation or person to this state, or to any municipal corporation therein.

Seventeenth—Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

Eighteenth—Legalizing, except as against the state, the unauthorized or invalid act of any officer.

Nineteenth—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

Twentieth—Exempting property from taxation.

Twenty-first—Changing county seats.

Twenty-second—Restoring to citizenship persons convicted of infamous crimes.

Twenty-third—Regulating the rate of interest on money.

Twenty-fourth—Authorizing the creation, extension, or impairing of liens.

Twenty-fifth—Chartering or licensing ferries, bridges, or roads.

Twenty-sixth—Remitting fines, penalties, or forfeitures.

Twenty-seventh—Providing for the management of common schools.

Twenty-eighth—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, township, election or school districts.

Twenty-ninth—Affecting the fees or salary of any officer.

Thirtieth—Changing the law of descent or succession.

Thirty-first—Authorizing the adoption or legitimation of children.

Thirty-second—For limitation of civil or criminal actions.

Thirty-third—In all other cases where a general law can be made applicable.

§ 25½. The legislature may provide for the division of the state into fish and game districts, and may enact such laws for the protection of fish and game therein as it may deem appropriate to the respective districts. [New section; adopted November 4, 1902.]

§ 26. The legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this state of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery. The legislature shall pass laws to regulate or prohibit the buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange, or stock market under the control of any association. All contracts for the sale of shares of the capital stock of any corporation or association, on margin, or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered by the party paying it by suit in any court of competent jurisdiction.

§ 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more congressmen; but the legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district, shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached, by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts, no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

§ 28. In all elections by the legislature the members thereof shall vote viva voce, and the vote shall be entered on the journal.

§ 29. The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of the state officers, the expenses of the government, and of the institutions under the exclusive control and management of the state.

§ 30. Neither the legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropria-

tion, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any city, city and county, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the legislature granting aid pursuant to section twenty-two of this article.

§ 31. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the state, or of any county, city and county, city, township, or other political corporation or subdivision of the state now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof in any manner whatever, for the payment of the liabilities of any individual, association, municipal, or other corporation whatever: nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value, to any individual, municipal or other corporation whatever: provided, that nothing in this section shall prevent the legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the state, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

§ 32. The legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part; nor to pay, or to authorize the payment of, any claim hereafter created against the state, or any county or municipality of the state, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

§ 33. The legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

§ 34. No bill making an appropriation of money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose, to be therein expressed.

§ 35. Any person who seeks to influence the vote of a member of the legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the legislature to provide, by law, for the punishment of this crime. Any member of the legislature who shall be influenced, in his vote or action, upon any matter pending before the legislature, by any reward, or

promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a member of the legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

§ 36. The legislature shall have power to establish a system of state highways or to declare any road a state highway, and to pass all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance in whole or in part of any county highway. [New section, adopted November 4, 1902.]

ARTICLE V.

EXECUTIVE DEPARTMENT.

§ 1. The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the governor of the state of California.

§ 2. The governor shall be elected by the qualified electors at the time and places of voting for members of the assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.

§ 3. No person shall be eligible to the office of governor who has not been a citizen of the United States and a resident of this state five years next preceding his election, and attained the age of twenty-five years at the time of such election.

§ 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the assembly, who shall, during the first week of the session, open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor: but in case any two or more have an equal and the highest number of votes, the legislature shall, by joint vote of both houses, choose one of such persons so having an equal and the highest number of votes for governor.

§ 5. The governor shall be commander-in-chief of the militia, the army and navy of this state.

§ 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department upon any subject relating to the duties of their respective offices.

§ 7. He shall see that the laws are faithfully executed.

§ 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and law for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall

expire at the end of the next session of the legislature, or at the next election by the people.

§ 9. He may, on extraordinary occasions, convene the legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subject other than those specified in the proclamation, but may provide for the expenses of the session, and other matters incidental thereto.

§ 10. He shall communicate, by message to the legislature, at every session, the condition of the state, and recommend such matters as he shall deem expedient.

§ 11. In case of a disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper; provided, it be not beyond the time fixed for the meeting of the next legislature.

§ 12. No person shall, while holding any office under the United States, or this state, exercise the office of governor, except as hereinafter expressly provided.

§ 13. There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of California."

§ 14. All grants and commissions shall be in the name and by authority of the people of the state of California, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

§ 15. A lieutenant-governor shall be elected at the same time and place, and in the same manner, as the governor, and his term of office and his qualifications shall be the same. He shall be president of the senate, but shall only have a casting vote therein. [Amendment adopted November 8, 1898.]

§ 16. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of his office, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. And should the lieutenant-governor be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the state, the president pro tempore of the senate shall act as governor until the vacancy in the office of governor shall be filled at the next general election when members of the legislature shall be chosen, or until such disability of the lieutenant-governor shall cease. In case of a vacancy in the office of governor for any of the reasons above named, and neither the lieutenant-governor nor the president pro tempore of the senate succeed to the powers and duties of governor, then the powers and duties of such office shall devolve upon the speaker of the assembly, until the office of governor shall be filled at such general election. [Amendment adopted November 8, 1898.]

§ 17. A secretary of state, a controller, a treasurer, an attorney-general, and a surveyor-general shall be elected at the same time and places, and in the same manner, as the governor and lieutenant-governor, and their terms of office shall be the same as that of the governor.

§ 18. The secretary of state shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as may be assigned him by law.

§ 19. The governor, lieutenant-governor, secretary of state, controller, treasurer, attorney-general, and surveyor-general shall, at stated times, during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers for the two terms next ensuing the adoption of this constitution, as follows: Governor, six thousand dollars per annum; lieutenant-governor, the same per diem as may be provided by law for the speaker of the assembly, to be allowed only during the session of the legislature; the secretary of state, controller, treasurer, attorney-general, and surveyor-general, three thousand dollars each per annum, such compensation to be in full for all services by them, respectively, rendered in any official capacity or employment whatsoever during their respective terms of office: provided, however, that the legislature, after the expiration of the terms hereinbefore mentioned, may by law diminish the compensation of any or all such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding sixteen hundred dollars per annum for each clerk employed. The legislature may, in its discretion, abolish the office of surveyor-general; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

§ 20. The governor shall not, during his term of office, be elected a senator to the senate of the United States.

ARTICLE VI.

JUDICIAL DEPARTMENT.

§ 1. The judicial power of the state shall be vested in the senate, sitting as a court of impeachment, in a supreme court, district courts of appeal, superior courts, justices of the peace, and such inferior courts as the legislature may establish in any incorporated city or town, or city and county. [Amendment adopted November 8, 1904.]

§ 2. The supreme court shall consist of a chief justice and six associate justices. The court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, department one and department two. The chief justice shall assign three of the associate justices to each department, and such assignment may be changed by him from time to time. The associate justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves, or as ordered by the chief justice. Each of the departments shall have the power to hear and determine causes, and all questions arising therein, subject to the provisions hereinafter contained in relation to the court in bank. The presence of three justices shall be necessary to transact any business in either of the departments, except such

as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment. The chief justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two associate justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited, the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the chief justice, in writing, with the concurrence of two associate justices. The chief justice may convene the court in bank at any time, and shall be the presiding justice of the court when so convened. The concurrence of four justices present at the argument shall be necessary to pronounce a judgment in bank; but if four justices, so present, do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four judges shall be necessary. In the determination of causes, all decisions of the court, in bank or in departments, shall be given in writing, and the grounds of the decision shall be stated. The chief justice may sit in either department, and shall preside when so sitting, but the justices assigned to each department shall select one of their number as presiding justice. In case of the absence of the chief justice from the place at which the court is held, or his inability to act, the associate justices shall select one of their own number to perform the duties and exercise the powers of the chief justice during such absence or inability to act.

§ 3. The chief justice and the associate justices shall be elected by the qualified electors of the state at large at the general state elections, at the time and places at which state officers are elected; and the term of office shall be twelve years from and after the first Monday after the first day of January next succeeding their election; provided, that the six associate justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the court in bank, signed by them, and a duplicate thereof shall be filed in the office of the secretary of state. If a vacancy occur in the office of a justice, the governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election, and the justice so elected shall hold the office for the remainder of the unexpired term. The first election of the justices shall be at the first general election after the adoption and ratification of this constitution.

§ 4. The supreme court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in justices' courts; also in all cases at law which involve the title or possession of real estate, or

the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to two thousand dollars; also, in all such probate matters as may be provided by law; also, on questions of law alone, in all criminal cases where judgment of death has been rendered; the said court shall also have appellate jurisdiction in all cases, matters, and proceedings pending before a district court of appeal which shall be ordered by the supreme court to be transferred to itself for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or before any district court of appeal, or before any judge thereof, or before any superior court in the state, or before any judge thereof.

The state is hereby divided into three appellate districts, in each of which there shall be a district court of appeal, consisting of three justices. The first district shall embrace the following counties: San Francisco, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Fresno, Santa Cruz, Monterey, and San Benito.

The second district shall embrace the following counties: Tulare, Kings, San Luis Obispo, Kern, Inyo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego.

The third district shall embrace the following counties: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Lake, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Sonoma, Napa, Yolo, Placer, Solano, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Stanislaus, Mariposa, Madera, Merced, Tuolumne, Alpine, and Mono.

The supreme court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district.

Said district courts of appeal shall hold their regular sessions respectively at San Francisco, Los Angeles, and Sacramento, and they shall always be open for the transaction of business.

The district courts of appeal shall have appellate jurisdiction on appeal from the superior courts in all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and does not amount to two thousand dollars; also, in all cases of forcible and unlawful entry and detainer (except such as arise in justices' courts), in proceedings in insolvency, and in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, and prohibition, usurpation of office, contesting elections and eminent domain, and in such other special proceedings as may be provided by law (excepting cases in which appellate jurisdiction is given to the supreme court); also, on questions of law alone, in all criminal cases prosecuted by indictment or information in a court of record, excepting criminal cases where judgment of death has been rendered. The said courts

shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the supreme court which shall be ordered by the supreme court to be transferred to a district court of appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the district court of appeal of his district, or before any superior court within his district, or before any judge thereof.

The supreme court shall have power to order any cause pending before the supreme court to be heard and determined by a district court of appeal, and to order any cause pending before a district court of appeal to be heard and determined by the supreme court. The order last mentioned may be made before judgment has been pronounced by a district court of appeal, or within thirty days after such judgment shall have become final therein. The judgments of the district courts of appeal shall become final therein upon the expiration of thirty days after the same shall have been pronounced.

The supreme court shall have power to order causes pending before a district court of appeal for one district to be transferred to the district court of appeal of another district for hearing and decision.

The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general state election at the times and places at which justices of the supreme court are elected. Their terms of office and salaries shall be the same as those of justices of the supreme court, and their salaries shall be paid by the state. Upon the ratification by the people of this amendment the governor shall appoint nine persons to serve as justices of the district courts of appeal until the first Monday after the first day of January in the year nineteen hundred and seven; provided, that not more than six of said persons shall be members of the same political party. At the election in the year nineteen hundred and six nine of such justices shall be elected as above provided, and the justices of each district court of appeal shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them at the end of twelve years; an entry of such classification shall be made in the minutes of the court, signed by the three justices thereof, and a duplicate thereof filed in the office of the secretary of state. If any vacancy occur in the office of a justice of the district courts of appeal, the governor shall appoint a person to hold office until the election and qualification of a justice to fill the vacancy; such election shall take place at the next succeeding general state election as aforesaid; the justice then elected shall hold the office for the unexpired term.

One of the justices of each of the district courts of appeal shall be the presiding justice thereof, and as such shall be appointed or elected as the case may be. The presence of three justices shall be necessary for the transaction of any business by such court, except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment.

Whenever any justice of the supreme court is for any reason disqualified or unable to act in a cause pending before it, the remaining justices may select one of the justices of a district court of appeal to act pro tempore in the place of the justice so disqualified or unable to act.

Whenever any justice of a district court of appeal is for any reason disqualified or unable to act in any cause pending before it, the supreme court may appoint a justice of the district court of appeal of another district, or a judge of a superior court who has not acted in the cause in the court below, to act pro tempore in the place of the justice so disqualified or unable to act.

No appeal taken to the supreme court or to a district court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

All statutes now in force allowing, providing for, or regulating appeals to the supreme court shall apply to appeals to the district courts of appeal so far as such statutes are not inconsistent with this article and until the legislature shall otherwise provide.

The supreme court shall make and adopt rules not inconsistent with law for the government of the supreme court and of the district courts of appeal and of the officers thereof, and for regulating the practice in said courts. [Amendment adopted November 8, 1904.]

§ 5. The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage; and of all such special cases and proceedings as are not otherwise provided for. And said court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the state; provided that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said courts, and their judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

§ 6. There shall be in each of the organized counties, or cities and counties, of the state, a superior court, for each of which at least one judge shall be elected by the qualified electors of the county or city and county, at

the general state election; provided, that until otherwise ordered by the legislature, only one judge shall be elected for the counties of Yuba and Sutter, and that in the city and county of San Francisco there shall be elected twelve judges of the superior court, any one or more of whom may hold court. There may be as many sessions of said court, at the same time, as there are judges thereof. The said judges shall choose, from their own number, a presiding judge, who may be removed at their pleasure. He shall distribute the business of the court among the judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the superior court held by any one or more of the judges of said courts, respectively, shall be equally effectual as if all the judges of said respective courts presided at such session. In each of the counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda there shall be elected two such judges. The term of office of judges of the superior courts shall be six years from and after the first Monday of January next succeeding their election: provided, that the twelve judges of the superior court elected in the city and county of San Francisco, at the first election held under this constitution, shall at their first meeting so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the court, signed by them, and a duplicate thereof filed in the office of the secretary of state. The first election of judges of the superior courts shall take place at the first general election held after the adoption and ratification of this constitution. If a vacancy occur in the office of judge of a superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

§ 7. In any county, or city and county, other than the city and county of San Francisco, in which there shall be more than one judge of the superior court, the judges of such court may hold as many sessions of said court at the same time as there are judges thereof, and shall apportion the business among themselves as equally as may be.

§ 8. A judge of any superior court may hold a superior court in any county, at the request of a judge of the superior court thereof, and upon the request of the governor it shall be his duty so to do. But a cause in the superior court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause.

§ 9. The legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office. The legislature of the state may, at any time, two thirds of the members of the senate and two thirds of the members of the assembly voting therefor, increase or diminish the number of judges of the superior court in any county, or city and county, in the state: provided, that no such reduction shall affect any judge who has been elected.

§ 10. Justices of the supreme court, and of the district courts of appeal, and judges of the superior courts may be removed by concurrent resolution of both houses of the legislature adopted by a two-thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the senate on the recommendation of the governor: but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journal. [Amendment adopted November 8, 1904.]

§ 11. The legislature shall determine the number of justices of the peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties, and responsibilities of justices of the peace; provided, such powers shall not, in any case, trench upon the jurisdiction of the several courts of record, except that said justices shall have concurrent jurisdiction with the superior courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of liens nor the value of the property amounts to three hundred dollars.

§ 12. The supreme court, the district courts of appeal, the superior courts, and such other courts as the legislature shall prescribe, shall be courts of record. [Amendment adopted November 8, 1904.]

§ 13. The legislature shall fix by law the jurisdiction of any inferior courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof.

§ 14. The legislature shall provide for the election of a clerk of the supreme court, and shall fix by law his duties and compensation, which compensation shall not be increased or diminished during the term for which he shall have been elected. The county clerks shall be ex officio clerks of the courts of record in and for their respective counties, or cities and counties. The legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

§ 15. No judicial officer, except justices of the peace and court commissioners, shall receive to his own use any fees or perquisites of office.

§ 16. The legislature shall provide for the speedy publication of such opinions of the supreme court and of the district courts of appeal as the supreme court may deem expedient, and all opinions shall be free for publication by any person. [Amendment adopted November 8, 1904.]

§ 17. The justices of the supreme court and of the district courts of appeal, and the judges of the superior courts shall severally, at stated times during their continuance in office, receive for their services such compensation as is or shall be provided by law, which shall not be increased or diminished

after their election, nor during the term for which they shall have been elected. The salaries of the justices of the supreme court and of the district courts of appeal shall be paid by the state. One half of the salary of each superior court judge shall be paid by the state; the other half thereof shall be paid by the county for which he is elected. [Amendment adopted November 8, 1904.]

§ 18. The justices of the supreme court, and of the district courts of appeal, and the judges of the superior courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected. [Amendment adopted November 8, 1904.]

§ 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

§ 20. The style of process shall be "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

§ 21. The supreme court may appoint a reporter and not more than three assistant reporters of the decisions of the supreme court and of the district courts of appeal. Each of the district courts of appeal shall appoint its own clerk. All the officers herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as shall be prescribed by law, and discharge such duties as shall be prescribed by law or by the rules or orders of the courts by which they are severally appointed. [Amendment adopted November 8, 1904.]

§ 22. No judge of a court of record shall practise law in any court of this state during his continuance in office.

§ 23. No one shall be eligible to the office of a justice of the supreme court, or of a district court of appeal, or of a judge of a superior court, unless he shall have been admitted to practice before the superior court of the state. [Amendment adopted November 8, 1904.]

§ 24. No judge of the supreme court nor of a district court of appeal, nor of a superior court, shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undecided that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the supreme court and of the district courts of appeal shall be given in writing, and the grounds of the decision shall be stated. When the justices of a district court of appeal are unable to concur in a judgment, they shall give their several opinions in writing and cause copies thereof to be forwarded to the supreme court. [Amendment adopted November 8, 1904.]

§ 25. The present supreme court commission shall be abolished at the expiration of its present term of office, and no supreme court commission shall be created or provided for after January first, anno Domini nineteen hundred and five. [New section, adopted November 8, 1904.]

ARTICLE VII.

PARDONING POWER.

§ 1. The governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason

and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the governor shall have power to suspend the execution of the sentence until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The governor shall communicate to the legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the governor nor the legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of a felony, unless upon the written recommendation of a majority of the judges of the supreme court.

ARTICLE VIII.

MILITIA.

§ 1. The legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the legislature shall, from time to time, direct, and shall be commissioned by the governor. The governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrections, and repel invasions.

§ 2. All military organizations provided for by this constitution, or any law of this state, and receiving state support, shall, while under arms, either for ceremony or duty, carry no device, banner, or flag of any state or nation, except that of the United States or the state of California.

ARTICLE IX.

EDUCATION.

§ 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

§ 2. A superintendent of public instruction shall, at each gubernatorial election after the adoption of this constitution, be elected by the qualified electors of the state. He shall receive a salary equal to that of the secretary of state, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

§ 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election: provided, that the legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting.

§ 4. The proceeds of all lands that have been or may be granted by the United States to this state for the support of common schools, which may be, or may have been, sold or disposed of, and the five hundred thousand acres

of land granted to the new states under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved anno Domini one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per centum as may be granted, or may have been granted, by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the state.

§ 5. The legislature shall provide for a system of common schools, by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

§ 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the legislature, or by municipal or district authority. The entire revenue derived from the state school fund and from the general state school tax shall be applied exclusively to the support of primary and grammar schools, but the legislature may authorize and cause to be levied a special state school tax for the support of high schools and technical schools, or either of such schools, included in the public school system, and all revenue derived from such special tax shall be applied exclusively to the support of the schools for which such special tax shall be levied. [Amendment adopted November 4, 1902.]

§ 7. The governor, the superintendent of public instruction, the president of the University of California, and the professor of pedagogy therein, and the principals of the state normal schools shall constitute the state board of education, and shall compile, or cause to be compiled, and adopt, a uniform series of text-books for use in the common schools throughout the state. The state board may cause such text-books, when adopted, to be printed and published by the superintendent of state printing, at the state printing office, and, when so printed and published, to be distributed and sold at the cost price of printing, publishing, and distributing the same. The text-books so adopted shall continue in use not less than four years; and said state board shall perform such other duties as may be prescribed by law. The legislature shall provide for a board of education in each county in the state. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions. [Amendment adopted November 6, 1894.]

§ 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this state.

§ 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic act creating the same, passed March

twenty-third, eighteen hundred and sixty-eight (and the several acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its regents, and in the administration of its affairs; provided, that all the moneys derived from the sale of the public lands donated to this state by act of Congress, approved July second, eighteen hundred and sixty-two (and the several acts amendatory thereof), shall be invested as provided by said acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one college of agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said acts of Congress; and the legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the state shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the university on account of sex.

§ 10. The trusts and estates created for the founding, endowment, and maintenance of the Leland Stanford Junior University, under and in accordance with "An act to advance learning, et cetera," approved March ninth, eighteen hundred and eighty-five, by the endowment grant executed by Leland Stanford and Jane Lathrop Stanford on the eleventh day of November, anno Domini eighteen hundred and eighty-five, and recorded in liber eighty-three of deeds, at page twenty-three, et sequentia, records of Santa Clara County, and by the amendments of such grant, and by gifts, grants, bequests, and devises supplementary thereto, and by confirmatory grants, are permitted, approved, and confirmed. The board of trustees of the Leland Stanford Junior University, as such, or in the name of the institution, or by other intelligible designation of two trustees or of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest, for the benefit of the institution, or of any department thereof, and such property, unless otherwise provided, shall be held by the trustees of the Leland Stanford Junior University upon the trusts provided for in the grant founding the university, and amendments thereof, and grants, bequests, and devises supplementary thereto. The legislature, by special act, may grant to the trustees of the Leland Stanford Junior University corporate powers and privileges, but it shall not thereby alter their tenure, or limit their powers or obligations as trustees. All property now or hereafter held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University, or of any department thereof, may be exempted by special act from state taxation, and all personal property so held, the Palo Alto farm as described in the endowment grant to the trustees of the university, and all other real property so held and used by the university for educational purposes exclusively, may be similarly exempted from county and municipal taxation: provided, that residents of

California shall be charged no fees for tuition unless such fees be authorized by act of the legislature. [New section, adopted November 6, 1900.]

§ 11. All property now or hereafter belonging to "The California School of Mechanical Arts," an institution founded and endowed by the late James Lick to educate males and females in the practical arts of life, and incorporated under the laws of the state of California, November twenty-third, eighteen hundred and eighty-five, having its school buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the governor. The legislature may modify, suspend, and revive at will the exemption from taxation herein given. [New section, adopted November 6, 1900.]

§ 12. All property now or hereafter belonging to the "Californina Academy of Sciences," an institution for the advancement of science and maintenance of a free museum, and chiefly endowed by the late James Lick, and incorporated under the laws of the state of California, January sixteenth, eighteen hundred and seventy-one, having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the governor. The legislature may modify, suspend, and revive at will the exemption from taxation herein given. [New section, adopted November 8, 1904.]

ARTICLE X.

STATE INSTITUTIONS AND PUBLIC BUILDINGS.

§ 1. There shall be a state board of prison directors, to consist of five persons, to be appointed by the governor, with the advice and consent of the senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy occurring before the expiration of a term shall hold office only for the unexpired term of his predecessor. The governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

§ 2. The board of directors shall have the charge and superintendence of the state prisons, and shall possess such powers and perform such duties, in respect to other penal and reformatory institutions of the state, as the legislature may prescribe.

§ 3. The board shall appoint the warden and clerk, and determine the other necessary officers of the prisons. The board shall have power to remove the wardens and clerks for misconduct, incompetency, or neglect of duty. All other officers and employees of the prisons shall be appointed by the warden thereof, and be removed at his pleasure.

§ 4. The members of the board shall receive no compensation, other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the legislature may direct.

§ 5. The legislature shall pass such laws as may be necessary to further

define and regulate the powers and duties of the board, wardens, and clerks, and to carry into effect the provisions of this article.

§ 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the legislature shall, by law, provide for the working of convicts for the benefit of the state.

ARTICLE XI.

COUNTIES, CITIES, AND TOWNS.

§ 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this state.

§ 2. No county seat shall be removed unless two thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

§ 3. The legislature, by general and uniform laws, may provide for the formation of new counties; provided, however, that no new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand; nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken. [Amendment adopted November 6, 1894.]

§ 4. The legislature shall establish a system of county governments, which shall be uniform throughout the state; and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein shall be managed and transacted, in the manner prescribed by such general laws.

§ 5. The legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of boards of supervisors, sheriffs, county clerks, district attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and for this purpose may classify the counties by population, and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession.

§ 6. Corporations for municipal purposes shall not be created by special laws; but the legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore

organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, except in municipal affairs, shall be subject to and controlled by general laws. [Amendment adopted November 3, 1896.]

§ 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government. [Amendment adopted November 6, 1894.]

§ 8. Any city containing a population of more than three thousand five hundred inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board, or a majority of them, and returned, one copy to the mayor thereof, or other chief executive officer of such city, and the other to the recorder of the county. Such proposed charter shall then be published in two daily newspapers of general circulation in such city, for at least twenty days, and the first publication shall be made within twenty days after the completion of the charter; provided, that in cities containing a population of not more than ten thousand inhabitants such proposed charter shall be published in one such daily newspaper; and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified electors voting thereon shall ratify the same, it shall thereafter be submitted to the legislature for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter, and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors, and its ratification by them, shall, after the approval of such charter by the legislature, be made in duplicate, and deposited, one in the office of the secretary of state, and the other, after being recorded in said recorder's office, shall be deposited in the archives of the city, and thereafter all courts shall take judicial notice of said charter. The charter, so ratified, may be amended at intervals of not less than two years by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof, at a general or special election, held at least forty days after the publication of such proposals for twenty days in a daily newspaper of general circulation in such city, and ratified by a majority of the

electors voting thereon, and approved by the legislature as herein provided for the approval of the charter. Whenever fifteen per centum of the qualified voters of the city shall petition the legislative authority thereof to submit any proposed amendment or amendments to said charter to the qualified voters thereof for approval, the legislative authority thereof must submit the same. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. [Amendment adopted November 4, 1902.]

§ 8½. It shall be competent, in all charters framed under the authority given by section eight of article eleven of this constitution, to provide, in addition to those provisions allowable by this constitution and by the laws of the state, as follows:

1. For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the compensation of said judges and of their clerks and attachés.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, and the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation, and government of such boards, and of their clerks and attachés; and for all expenses incident to the holding of any election.

Where a city and county government has been merged and consolidated into one municipal government, it shall also be competent in any charter framed under said section eight of said article eleven, to provide for the manner in which, the times at which, and the terms for which the several county officers shall be elected or appointed, for their compensation, and for the number of deputies that each shall have, and for the compensation payable to each of such deputies. [Amendment adopted November 3, 1896.]

§ 9. The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

§ 10. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for state purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

§ 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

§ 12. The legislature shall have no power to impose taxes upon counties, cities, towns or other public or municipal corporations, or upon the inhabitants

or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

§ 13. The legislature shall not delegate to any special commission, private corporation, company, association, or individual, any power to make, control, appropriate, supervise, or in any way interfere with any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

§ 14. No state office shall be continued or created in any county, city, town, or other municipality, for the inspection, measurement, or graduation of any merchandise, manufacture, or commodity; but such county, city, town, or municipality may, when authorized by general law, appoint such officers.

§ 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

§ 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation coming into the hands of any officer thereof, shall immediately be deposited with the treasurer, or other legal depository, to the credit of such city, town, or other corporation, respectively, for the benefit of the funds to which they respectively belong.

§ 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

§ 18. No county, city, town, township, board of education, or school districts, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same: provided, however, that the city and county of San Francisco may at any time pay the unpaid claims, with interest thereon at the rate of five per centum per annum, for materials furnished to and work done for said city and county during the forty-first, forty-second, forty-third, forty-fourth, and fiftieth fiscal years, and for unpaid teachers' salaries for the fiftieth fiscal year, out of the income and revenue of any succeeding year or years, the amount to be paid in full of said claims not to exceed in the aggregate the sum of five hundred thousand dollars, and that no statute of limitations shall apply in any manner to these claims; and provided further, that the city of Vallejo, of Solano County, may pay its existing indebtedness incurred in the construction of its waterworks whenever two thirds of the electors thereof voting at an election held for that purpose shall so decide, and that no statute of limitations shall apply in any manner. Any indebtedness or liability incurred contrary to this provision, with

the exceptions hereinbefore recited, shall be void. [Amendment adopted November 6, 1900.]

§ 19. In any city where there are no public works owned and controlled by the municipality for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this state, shall, under the direction of the superintendent of streets, or other officer in control thereof, and under such general regulations as the municipality may prescribe for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gaslight or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof. [Amendment adopted November 4, 1884.]

ARTICLE XII.

CORPORATIONS.

§ 1. Corporations may be formed under general laws, but shall not be created by special act. All laws now in force in this state concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 3. Each stockholder of a corporation or joint-stock association shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation or association. The directors or trustees of corporations and joint-stock associations shall be jointly and severally liable to the creditors and stockholders for all moneys embezzled or misappropriated by the officers of such corporation or joint-stock association during the term of office of such director or trustee.

§ 4. The term "corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue, and be subject to be sued, in all courts, in like cases as natural persons.

§ 5. The legislature shall have no power to pass any act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

§ 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

§ 7. The legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter, of any corporation now existing, or which shall hereafter exist, under the laws of this state.

§ 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals; and the exercise of the police power of the state shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the state.

§ 9. No corporation shall engage in any business other than that expressly authorized in its charter or the law under which it may have been or may hereafter be organized; nor shall it hold for a longer period than five years any real estate, except such as may be necessary for carrying on its business.

§ 10. The legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

§ 11. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, at a meeting called for that purpose, giving sixty days' public notice as may be provided by law.

§ 12. In all elections for directors or managers of corporations every stockholder shall have the right to vote, in person or by proxy, the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner, except that members of co-operative societies formed for agricultural, mercantile, and manufacturing purposes may vote on all questions affecting such societies in manner prescribed by law.

§ 13. The state shall not, in any manner, loan its credit, nor shall it subscribe to or be interested in the stock of any company, association, or corporation.

§ 14. Every corporation, other than religious, educational, or benevolent, organized or doing business in this state, shall have and maintain an office or place in this state for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for inspection by every person having an interest therein, and legislative committees, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of stock; the amount of its assets and liabilities, and the names and places of residence of its officers.

§ 15. No corporation organized outside the limits of this state shall be allowed to transact business within this state on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this state.

§ 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the court to change the place of trial, as in other cases.

§ 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose under the laws of this state, shall have the right to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

§ 18. No president, director, officer, agent, or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

§ 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this state; and the acceptance of any such pass or ticket, by a member of the legislature, or any public officer, other than railroad commissioner, shall work a forfeiture of his office.

§ 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this state, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of passengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

§ 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state, or coming from or going to any other state. Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for transportation of persons and property of the same class, in the same direction, to any more distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

§ 22. The state shall be divided into three districts as nearly equal in population as practicable, in each of which one railroad commissioner shall be elected

by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Monday after the first day of January next succeeding their election. Said commissioners shall be qualified electors of this state and of the district from which they are elected, and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney, or employee; and the act of a majority of said commissioners shall be deemed the act of said commission. Said commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies; and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpoenas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as courts of record, and enforce their decisions and correct abuses through the medium of the courts. Said commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the commission, shall be fined not exceeding twenty thousand dollars for each offense; and every officer, agent, or employee of any such corporation or company who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not exceeding five thousand dollars, or be imprisoned in the county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the judge or jury, recover exemplary damages. Said commission shall report to the governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any such companies. The legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The legislature shall have power, by a two-thirds vote of all the members elected to each house, to remove any one or more of said commissioners from office, for dereliction of duty, or corruption; or incompetency; and whenever, from any cause, a vacancy in office shall occur in said commission, the governor shall fill the same by the appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

§ 23. Until the legislature shall district the state, the following shall be the railroad districts: The first district shall be composed of the counties of Alpine,

Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba, from which one railroad commissioner shall be elected. The second district shall be composed of the counties of Marin, San Francisco, and San Mateo, from which one railroad commissioner shall be elected. The third district shall be composed of the counties of Alameda, Contra Costa, Fresno, Inyo, Kern, Los Angeles, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, from which one railroad commissioner shall be elected.

§ 24. The legislature shall pass all laws necessary for the enforcement of the provisions of this article.

ARTICLE XIII.

REVENUE AND TAXATION.

§ 1. All property in the state, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this state, or to any county or municipal corporation within this state, shall be exempt from taxation. The legislature may provide, except in case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this state. [Amendment adopted November 6, 1894.]

§ 1½. All buildings, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, shall be free from taxation; provided, that no building so used which may be rented for religious purposes and rent received by the owner thereof shall be exempt from taxation. [New section, adopted November 6, 1900.]

§ 1¾. All bonds hereafter issued by the state of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said state, shall be free and exempt from taxation. [New section, adopted November 4, 1902.]

§ 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

§ 3. Every tract of land containing more than six hundred and forty acres, and which has been sectionized by the United States government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States government.

§ 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and

treated as an interest in the property affected thereby. Except as to railroad and other quasi-public corporations, in case of debt so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security: if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment, a full discharge thereof; provided, that if any such security or indebtedness shall be paid by any such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

§ 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

§ 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state shall be a party.

§ 7. The legislature shall have the power to provide by law for the payment of all taxes on real property by instalments.

§ 8. The legislature shall by law require each taxpayer in this state to make and deliver to the county assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian on the first Monday of March.

§ 9. A state board of equalization, consisting of one member from each congressional district in this state, as the same existed in eighteen hundred and seventy-nine, shall be elected by the qualified electors of their respective districts, at the general election to be held in the year one thousand eight hundred and eighty-six, and at each gubernatorial election thereafter, whose term of office shall be for four years; whose duty it shall be to equalize the valuation of the taxable property in the several counties of the state for the purpose of taxation. The controller of state shall be ex officio a member of the boards. The boards of supervisors of the several counties of the state shall constitute boards of equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; provided, such state and county boards of equalization are hereby authorized and empowered, under such rules of notice as the county boards may prescribe as to county assessments, and under such rules of notice as the state board may prescribe as to the action of the state board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; provided,

that no board of equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value. The present state board of equalization shall continue in office until their successors, as herein provided for, shall be elected and shall qualify. The legislature shall have power to redistrict the state into four districts, as nearly equal in population as practical, and to provide for the elections of members of said board of equalization. [Amendment adopted November 4, 1884.]

§ 10. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, town, township, or district in which it is situated, in the manner prescribed by law. The franchise, roadway, road-bed, rails, and rolling stock of all railroads operated in more than one county in this state shall be assessed by the state board of equalization at their actual value, and the same shall be apportioned to the counties, cities and counties, cities, towns, townships, and districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships, and districts.

§ 10½. The personal property of every householder to the amount of one hundred dollars, the articles to be selected by each householder, shall be exempt from taxation. [New section, adopted November 8, 1904.]

§ 11. Income taxes may be assessed to any collected from persons, corporations, joint-stock associations, or companies resident or doing business in this state, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

§ 12. The legislature shall provide for the levy and collection of an annual poll-tax, of not less than two dollars, on every male inhabitant of this state over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the state school fund.

§ 12¾. Fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grapevines under the age of three years from the time of planting in vineyard form, shall be exempt from taxation, and nothing in this article shall be construed as subjecting such trees and grapevines to taxation. [New section, adopted November 6, 1894.]

§ 13. The legislature shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XIV.

WATER AND WATER RIGHTS.

§ 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the state, in the manner to be prescribed by law; provided, that the rates or compensation to be collected by any person, company, or corporation in this state for the use of water supplied to any city and county, or city, or town, or the inhabitants thereof, shall be fixed, annually, by the board of supervisors, or city and county, or city, or town council, or other governing body of such city and county, or city, or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions

are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process to compel action, at the suit of any party interested, and shall be liable to such further processes and penalties as the legislature may prescribe. Any person, company, or corporation collecting water rates in any city and county, or city, or town in this state, otherwise than as so established, shall forfeit the franchises and water-works of such person, company, or corporation to the city and county, or city, or town, where the same are collected, for the public use.

§ 2. The right to collect rates or compensation for the use of waters supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

ARTICLE XV.

HARBOR FRONTAGE, ETC.

§ 1. The right of eminent domain is hereby declared to exist in the state to all frontages on the navigable waters of this state.

§ 2. No individual, partnership, or corporation, claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this state, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this state shall be always attainable for the people thereof.

§ 3. All tide-lands within two miles of any incorporated city or town of this state, and fronting on the waters of any harbor, estuary, bay, or inlet, used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

ARTICLE XVI.

STATE INDEBTEDNESS.

§ 1. The legislature shall not, in any manner, create any debt of debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall

be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the state, for three months next preceding the election at which it is submitted to the people. The legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

ARTICLE XVII.

LAND AND HOMESTEAD EXEMPTION.

§ 1. The legislature shall protect, by law, from forced sale, a certain portion of the homestead and other property of all heads of families.

§ 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

§ 3. Lands belonging to this state, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

ARTICLE XVIII.

AMENDING AND REVISING THE CONSTITUTION.

§ 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly, and if two thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their journals, with the yeas and nays taken thereon; and it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of this constitution.

§ 2. Whenever two thirds of the members elected to each branch of the legislature shall deem it necessary to revise this constitution they shall recommend to the electors to vote, at the next general election, for or against a convention for that purpose, and if a majority of the electors voting at such election on the proposition for a convention shall vote in favor thereof, the legislature shall, at its next session, provide by law for calling the same. The convention shall consist of a number of delegates not to exceed that of both branches of the legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the legislature. The delegates so elected shall meet within three months after their election, at such place as the legislature may direct. At a special election, to be provided for by law, the constitution that may be agreed upon by such convention shall be submitted to the people for their ratification or rejection, in such manner as the convention may determine. The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the state, who shall call to his assistance the controller, treasurer, and secretary of state, and compare the returns so certified to him; and it shall

be the duty of the executive to declare, by his proclamation, such constitution as may have been ratified by a majority of all the votes cast at such special election, to be the constitution of the state of California.

ARTICLE XIX.

CHINESE.

§ 1. The legislature shall prescribe all necessary regulations for the protection of the state, and the counties, cities, and towns thereof, from the burdens and evils arising from the presence of aliens who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the state, and to impose conditions upon which such persons may reside in the state, and to provide the means and mode of their removal from the state, upon failure or refusal to comply with such conditions: provided, that nothing contained in this section shall be construed to impair or limit the power of the legislature to pass such police laws or other regulations as it may deem necessary.

§ 2. No corporation now existing or hereafter formed under the laws of this state shall, after the adoption of this constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The legislature shall pass such laws as may be necessary to enforce this provision.

§ 3. No Chinese shall be employed on any state, county, municipal, or other public work, except in punishment for crime.

§ 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the state, and the legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this state, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the legislature may prescribe. The legislature shall delegate all necessary power to the incorporated cities and towns of this state for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this state of Chinese after the adoption of this constitution. This section shall be enforced by appropriate legislation.

ARTICLE XX.

MISCELLANEOUS SUBJECTS.

§ 1. The city of Sacramento is hereby declared to be the seat of government of this state, and shall so remain until changed by law: but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified electors of the state voting therefor at a general state election, under such regulations and provisions as the legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people.

§ 2. Any citizen of this state who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this state or out of it, or who shall act as

second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this constitution.

§ 3. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

“I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of California, and that I will faithfully discharge the duties of the office of —— according to the best of my ability.”

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

§ 4. All officers or commissioners whose election or appointment is not provided for by this constitution, and all officers or commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may direct.

§ 5. The fiscal year shall commence on the first day of July.

§ 6. Suits may be brought against the state in such manner and in such courts as shall be directed by law.

§ 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

§ 8. All property, real and personal, owned by either husband or wife, before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

§ 9. No perpetuities shall be allowed except for eleemosynary purposes.

§ 10. Every person shall be disqualified from holding any office of profit in this state who shall have been convicted of having given or offered a bribe to procure his election or appointment.

§ 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

§ 12. Absence from this state, on business of the state or of the United States, shall not affect the question of residence of any person.

§ 13. A plurality of the votes given at any election shall constitute a choice, where not otherwise directed in this constitution.

§ 14. The legislature shall provide, by law, for the maintenance and efficiency of a state board of health.

§ 15. Mechanics, materialmen, artisans, and laborers of every class shall have a lien upon the property upon which they have bestowed labor or furnished material, for the value of such labor done and material furnished; and the legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

§ 16. When the term of any officer or commissioner is not provided for in

this constitution, the term of such officer or commissioner may be declared by law; and if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years.

§ 17. The time of service of all laborers, or workmen or mechanics employed upon any public works of the state of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work and prescribe proper penalties for the speedy and efficient enforcement of said law. [Amendment adopted November 4, 1902.]

§ 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

§ 19. Nothing in this constitution shall prevent the legislature from providing, by law, for the payment of the expenses of the convention framing this constitution, including the per diem of the delegates for the full term thereof.

§ 20. Elections of the officers provided for by this constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even-numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

ARTICLE XXI.

BOUNDARY.

§ 1. The boundary of the state of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

ARTICLE XXII.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments to the constitution of this state, and to carry the same into complete effect, it is hereby ordained and declared:

§ 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the legislature; and all rights, actions, prosecutions, claims, and contracts of the state, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this constitution had not been adopted. The provisions of all laws which are inconsistent with this constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the legislature.

§ 2. That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this constitution, to this state, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this state, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this constitution.

§ 3. All courts now existing, save justices' and police courts, are hereby abolished; and all records, books, papers, and proceedings from such courts, as are abolished by this constitution, shall be transferred, on the first day of January, eighteen hundred and eighty, to the courts provided for in this constitution; and the courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

§ 4. The superintendent of printing of the state of California shall, at least thirty days before the first Wednesday in May, anno Domini eighteen hundred and seventy-nine, cause to be printed at the state printing office, in pamphlet form, simply stitched, as many copies of this constitution as there are registered voters in this state, and mail one copy thereof to the post-office address of each registered voter; provided, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several postmasters of the state. The governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the boards of supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.

§ 5. The superintendent of printing of the state of California shall, at least twenty days before said election, cause to be printed and delivered to the clerk of each county in this state five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the New Constitution." He shall likewise cause to be so printed and delivered to said clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the

words printed thereon: "Against the New Constitution." The secretary of state is hereby authorized and required to furnish the superintendent of state printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

§ 6. The clerks of the several counties in the state shall, at least five days before said election, cause to be delivered to the inspectors of election, at each election precinct or polling-place in their respective counties, suitable registers, poll-books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling-places. The returns of the number of votes cast at the presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; provided, that the duties in this and the preceding section imposed upon the clerks of the respective counties shall, in the city and county of San Francisco, be performed by the registrar of voters for said city and county.

§ 7. Every citizen of the United States, entitled by law to vote for members of the assembly in this state, shall be entitled to vote for the adoption or rejection of this constitution.

§ 8. The officers of the several counties of this state, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the city and county of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new constitution; and the proceedings of said board shall be the same as those prescribed for like boards in the case of an election for governor. Upon the completion of said canvass and returns, the said board shall immediately certify the same, in the usual form, to the governor of the state of California.

§ 9. The governor of the state of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the controller, treasurer, and secretary of state, open and compute all the returns received of votes cast for and against the new constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new constitution, the executive of this state shall, by his proclamation, declare such new constitution to be the constitution of the state of California, and that it shall take effect and be in force on the days hereinafter specified.

§ 10. In order that future elections in this state shall conform to the requirements of this constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen after the adoption of this constitution shall

be elected at the time and in the manner now provided by law. Judicial officers and the superintendent of public instruction shall be elected at the time and in the manner that state officers are elected.

§ 11. All laws relative to the present judicial system of the state shall be applicable to the judicial system created by this constitution until changed by legislation.

§ 12. This constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office, and the meeting of the legislature. In all other respects, and for all other purposes, this constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

J. P. HOGE, President.

Attest: EDWIN F. SMITH, Secretary.

A. R. ANDREWS,
JAMES J. AYERS,
CLITUS BARBOUR,
EDWARD BARRY,
JAMES N. BARTON,
C. J. BEERSTECHEER,
ISAAC S. BELCHER,
PETER BELL,
MARION BIGGS,
E. T. BLACKMER,
JOSEPH C. BROWN,
SAM'L B. BURT,
JOSIAH BOUCHER,
JAMES CAPLES,
AUG. H. CHAPMAN,
J. M. CHARLES,
JOHN D. CONDON,
C. W. CROSS,
HAMLET DAVIS,
JAS. E. DEAN,
P. T. DOWLING,
LUKE D. DOYLE,
W. L. DUDLEY,
JONATHAN M. DUDLEY,
PRESLEY DUNLAP,
JOHN EAGON,
THOMAS H. ESTEY,
HENRY EDGERTON,
M. M. ESTEE,
EDWARD EVEY,
J. A. FILCHER,
SIMON J. FARRELL,
ABRAHAM C. FREEMAN,
JACOB R. FREUD,
J. B. GARVEY,
E. B. GLASCOCK,
JOSEPH C. GORMAN,
W. P. GRACE,
WILLIAM J. GRAVES,
V. A. GREGG,
JNO. S. HAGER,
JOHN B. HALL,
THOMAS HARRISON,
JOEL A. HARVEY,
T. D. HEISKELL,
CONRAD HEROLD,

D. W. HERRINGTON,
S. G. HILBORN,
J. R. W. HITCHCOCK,
J. E. HALE,
VOLNEY E. HOWARD,
SAM. A. HOLMES,
W. J. HOWARD,
WM. P. HUGHEY,
W. F. HUESTIS,
G. W. HUNTER,
DANIEL INMAN,
GEORGE A. JOHNSON,
L. F. JONES,
PETER J. JOYCE,
I. M. KELLY,
JAMES H. KEYES,
JOHN J. KENNEY,
C. R. KLEINE,
T. H. LAINE,
HENRY LARKIN,
R. M. LAMPSON,
R. LAVIGNE,
H. M. LA RUE,
DAVID LEWIS,
J. F. LINDOW,
JNO. MANSFIELD,
EDWARD MARTIN,
J. WEST MARTIN,
RUSH McCOMAS,
JOHN G. McCALLUM,
THOMAS McCONNELL,
JOHN MCCOY,
THOS. B. McFARLAND,
HIRAM MILLS,
WM. S. MOFFATT,
JOHN F. McNUTT,
W. W. MORELAND,
L. D. MORSE,
JAMES E. MURPHY,
EDMUND NASON,
THORWALD K. NELSON,
HENRY NEUNABER,
CHAS. C. O'DONNELL,
GEORGE OHLEYER,
JAMES O'SULLIVAN,
JAMES M. PORTER,

WILLIAM H. PROUTY,
M. R. C. PULLIAM,
CHAS. F. REED,
PATRICK REDDY,
JOHN M. RHODES,
JAS. S. REYNOLDS,
HORACE C. ROLFE,
CHAS. S. RINGOLD,
JAMES McM. SHAFTER,
GEO. W. SCHELL,
J. SCHOMP,
RUFUS SHOEMAKER,
E. O. SMITH,
BENJ. SHURTLEFF,
GEO. VENABLE SMITH,
H. W. SMITH,
JOHN C. STEDMAN,
E. P. SOULE,
D. C. STEVENSON,
GEO. STEELE,
CHAS. V. STUART,
W. J. SWEASEY,
CHARLES SWENSON,
R. S. SWING,
D. S. TERRY,
S. B. THOMPSON,
F. O. TOWNSEND,
W. J. TINNIN,
DANIEL TUTTLE,
P. B. TULLY,
H. K. TURNER,
A. P. VACQUEREL,
WALTER VAN DYKE,
WM. VAN VOORHIES,
HUGH WALKER,
JOHN WALKER,
BYRON WATERS,
JOSEPH R. WELLER,
J. V. WEBSTER,
JOHN P. WEST,
PATRICK M. WELLIN,
JOHN T. WICKES,
WM. F. WHITE,
H. C. WILSON,
JOS. W. WINANS,
N. G. WYATT.

NATURALIZATION LAWS.

(United States Revised Statutes, §§ 2165-2174.)

§ 2165. An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise:

First. He shall declare on oath, before a circuit or district court of the United States, or a district or supreme court of the territories, or a court of record of any of the states having common-law jurisdiction, and a seal and clerk, two years, at least, prior to his admission, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject.

Second. He shall, at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty; and, particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Third. It shall be made to appear to the satisfaction of the court admitting such alien that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least; and that during that time he has behaved as a man of a good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same; but the oath of the applicant shall in no case be allowed to prove his residence.

Fourth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Fifth. Any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application, within the state or territory where such court is at the time held; and on his declaring on oath that he will support the constitution of the United States, and that he absolutely entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; and, also, on its appearing to the satisfaction of the court, that during such term of two years he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien, applying for admission to citizenship, has borne any heredi-

tary title or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings required in this condition to be performed in the court, shall be recorded by the clerk thereof.

Sixth. Any alien who was residing within the limits and under the jurisdiction of the United States, between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person, without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of the court, that the applicant was residing within the limits and jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizen; in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States. [Be it enacted by the senate and house of representatives of the United States of America in Congress assembled, That the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts named in said section.]

§ 2166. Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon the petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such persons having been honorably discharged from the service of the United States.

§ 2167. An alien being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the

three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for two years next preceding, it has been his bona fide intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization.

§ 2168. When any alien, who has complied with the first condition specified in section twenty-one hundred and sixty-five, dies before he is actually naturalized, the widow and children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths proscribed [prescribed] by law.

§ 2169. The provisions of this title shall apply to aliens [being free white persons, and to aliens] of African nativity and to persons of African descent.

§ 2170. No alien shall be admitted to become a citizen, who has not for the continued term of five years next preceding his admission resided in the United States.

§ 2171. No alien who is a native citizen or subject or a denizen of any country, state, or sovereignty with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intention to become citizens of the United States, or who were at that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they were alien enemies at the time and in the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

§ 2172. The children of persons who have been duly naturalized under any law of the United States, or who, previous to the passing of any law on that subject, by the government of the United States, may have become citizens of any one of the states, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof; but no person heretofore proscribed [prescribed] by any state, or who has been legally convicted of having joined the army of Great Britain during the revolutionary war, shall be admitted to become a citizen without the consent of the legislature of the state in which such person was proscribed [prescribed].

§ 2173. The police courts of the District of Columbia shall have no power to naturalize foreigners.

§ 2174. Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have

served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.

Citizenship to be accorded to allottees and Indians adopting civilized life.

§ 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the state or territory in which they may reside; and no territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law.

And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property. [Act February 8, 1887: 24 Stats. at L. 388.]

Indian women marrying white men become citizens.

§ 2. That every Indian woman, member of any such tribe of Indians, who may hereafter be married to any citizen of the United States, is hereby declared to become by such marriage a citizen of the United States, with all the rights, privileges, and immunities of any such citizen, being a married woman:

Provided, That nothing in this act contained shall impair or in any way affect the right or title of such married woman to any tribal property or any interest therein.

§ 3. That whenever the marriage of any white man with any Indian woman, a member of any such tribe of Indians, is required or offered to be proved in any judicial proceeding, evidence of the admission of such fact by the party against whom the proceeding is had, or evidence of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which fact may be inferred, shall be competent. [Act August 9, 1888: 25 Stats. at L. 392.]

AUTHENTICATION OF PUBLIC ACTS, RECORDS, AND JUDICIAL PROCEEDINGS, AS BETWEEN THE STATES.

(United States Revised Statutes, §§ 905-907.)

§ 905. The acts of the legislature of any state or territory, or of any country subject to the jurisdiction of the United States, shall be authenticated by having the seal of such state, territory, or country affixed thereto. The records and judicial proceedings of the courts of any state or territory, or of any such country, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, that the said attestation is in due form. And the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the state from which they are taken.

§ 906. All records and exemplifications of books, which may be kept in any public office of any state or territory, or of any country subject to the jurisdiction of the United States, not appertaining to a court, shall be proved or admitted in any court or office in any other state or territory, or in any such country, by the attestation of the keeper of the said records or books, and the seal of his office annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county, parish, or district in which such office may be kept, or of the governor, or secretary of state, the chancellor or keeper of the great seal, of the state or territory, or country, that the said attestation is in due form, and by the proper officers. If the said certificate is given by the presiding justice of a court, it shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or, if given by such governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the state, territory, or country aforesaid in which it is made. And the said records and exemplifications, so authenticated, shall have such faith and credit given to them in every court and office within the United States as they have by law or usage in the courts or office of the state, territory, or country, as aforesaid, from which they are taken.

§ 907. It shall be lawful for any keeper or person having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of the head of one of the departments, the solicitor of the treasury, or the commissioner of the general land office, to authenticate copies thereof under his hand and seal, and to certify them to be correct and true copies of such laws, judgments, orders, decrees, journals, correspondence, or other public documents, respectively: and when such copies are certified by an American minister or counsel, under his hand and seal of office, to be true copies of the originals, they shall be sealed up by him and returned to the solicitor of the treasury, who shall file them in his office, and cause them to be recorded in a book to be kept for that pur-

pose. A copy of any such law, judgment, order, decree, journal, correspondence, or other public document, so filed, or of the same so recorded in said book, may be read in evidence in any court, where the title to land claimed by or under the United States may come into question, equally with the originals.

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Art. II, § 5. Commitment without notice and hearing—Removal of superintendent. Unconstitutional.—*Sponogle vs. Curnow*, 136 Cal. 580, 69 Pac. Rep. 255. On similar point, see (*Police, Sacramento*) *Smith vs. Brown*, 59 Cal. 672; *People vs. Edwards*, 93 Cal. 153, 28 Pac. Rep. 831.

p. 374. Clark Road Law. Superseded by County Government Act § 452.—*Davis vs. Whidden*, 117 Cal. 618, 619, 49 Pac. Rep. 766.

pp. 452-464, § 25, subd. 21. County Government Act, printing. Unconstitutional.—*Van Harlingen vs. Doyle*, 134 Cal. 53, 66 Pac. Rep. 44, 54 L. R. A. 771.

§ 138, subd. 14. Constables. Unconstitutional.—*Lougher vs. Soto*, 129 Cal. 611, 62 Pac. Rep. 184; *Pratt vs. Browne*, 135 Cal. 649, 67 Pac. Rep. 1082 (reporters' fees).

§ 13. Referendum provision. Unconstitutional.—*Ex parte Anderson*, 134 Cal. 69, 86 Am. St. Rep. 236, 66 Pac. Rep. 194 (*Beatty, C. J.*, dissenting). See Const. art. XI, §§ 1, 4, 5, 11.

p. 522 (§ 170, County Government Act). Public administrator, counties of thirteenth class. Conceded, for sake of argument, to be unconstitutional.—*McCabe vs. Jefferds*, 122 Cal. 302, 54 Pac. Rep. 897.

p. 712, § 164, subd. 13. County Government. Unconstitutional.—*Tucker vs. Barnum*, 144 Cal. 266, 268, 269, 274, 77 Pac. Rep. 919.

Stats. 1899, p. 24, § 1. Publishing constitutional amendments. Unconstitutional.—*People ex rel. Attorney-General vs. Curry*, 130 Cal. 82, 91, 62 Pac. Rep. 516.

p. 47. Primary Election Law. Unconstitutional.—*Britton vs. Board Commissioners*, 129 Cal. 337, 61 Pac. Rep. 1115, 51 L. R. A. 115.

p. 241. San Francisco Charter. Repeals all former laws, general and special, affecting municipal affairs.—*Martin vs. Election Commissioners*, 126 Cal. 404, 407, 58 Pac. Rep. 932.

pp. 341-350, art. XI, §§ 4, 6, 8, 8½. San Francisco Charter—Civil service—Deputies of county officers. Unconstitutional.—*Crowley vs. Freud*, 132 Cal. 440-447, 64 Pac. Rep. 696. But compare with *Cahen vs. Wells*, 132 Cal. 447, 64 Pac. Rep. 699; and *Garnett vs. Brooks*, 136 Cal. 585-587, 69 Pac. Rep. 299.

p. 454. Assessors, compensation (San Francisco Charter, § 34). See dissenting opinion of Chief Justice Beatty, art. XIII, § 12.—*In re Estate Dodge*, 135 Cal. 512, 517, 67 Pac. Rep. 973.

p. 466. Police and justices' courts. § 69, as to "exclusive" jurisdiction, unconstitutional.—*Ex parte Dolan*, 128 Cal. 460, 462, 60 Pac. Rep. 1094.

Stats. 1901, p. 117. Revision of codes of California. Unconstitutional.—*Lewis vs. Dunne*, 134 Cal. 291, 296, 86 Am. St. Rep. 257, 66 Pac. Rep. 478, 55 L. R. A. 833; Const. art. IV, §§ 22, 24.

pp. 685, 750 (County Government Act, § 184, par. 13). Fees, township officers. Unconstitutional.—*Johnson vs. Gunn*, 1 Cal. App. Dec. 246.

p. 754 (County Government Act of 1897, § 187). Court reporter's fees. Unconstitutional.—*Pratt vs. Browne*, 135 Cal. 649, 67 Pac. Rep. 1082. See Const. art. XI, § 5, subd. 29; art. IV, § 25, title of the act; art. IV, § 24.

DECISIONS AFFECTING CODES.

Code Civ. Proc., § 112, subd. 2 (Amdt. 1880). Justice of the peace, jurisdiction. Constitutionality discussed.—A want of constitutional jurisdiction cannot be waived by parties to action, nor be given by the legislature.—*King vs. Kutner-Goldstein Co.*, 135 Cal. 65, 67 Pac. Rep. 10.

§ 392 (Amdt. 1889, p. 352). Place of trial. Effect limited under Const., art. XII, § 16.—*Miller & Lux vs. Kern County Land Co.*, 134 Cal. 586, 587, 66 Pac. Rep. 856.

§ 702 (Amdt. 1897, p. 41). Foreclosure sale—Redemption. Amendment unconstitutional.—*Haynes vs. Tredway*, 133 Cal. 400, 65 Pac. Rep. 892.

§ 1203 (Amdt. 1893, p. 202). Bond of contractor. Unconstitutional as unreasonable restrictions.—*Gibbs vs. Tally*, 133 Cal. 373, 65 Pac. Rep. 970, 60 L. R. A. 815. See Const., art. I, § 1.

Pen. Code, § 310½ (Amdt. 1895, p. 247). Barbers' Sunday Law. Unconstitutional.—*Ex parte Jentzsch*, 112 Cal. 468, 470, 44 Pac. Rep. 803, 32 L. R. A. 664.

Pol. Code, § 343. Designating regents of university as civil executive officers. (Repealed by Const., art. IX, § 9.)—*Lundy vs. Delmas*, 104 Cal. 655, 38 Pac. Rep. 445, 26 L. R. A. 651; *Condict vs. Police Court*, 59 Cal. 278.

§ 368. Office of gas inspector was abolished by § 14, art. XI, Const.—*Condict vs. Police Court*, 59 Cal. 278.

§ 577. Inspector of gas meters was abolished by § 14, art. XI, Const.—*Condict vs. Police Court*, 59 Cal. 278.

§ 1075. Providing for board of election in cities of one hundred and fifty thousand, is unconstitutional, as being a special law.—*Denman vs. Broderick*, 111 Cal. 96, 99, 43 Pac. Rep. 516.

§ 1131. Boards of election, covers more ground than § 25, subd. 3, County Government Act.

§ 1127. This section requires precincts for every two hundred voters, which provision is not in § 25, subd. 3, County Government Act, and said subd. 3 forbids change of precincts within ninety days before election, which is not in § 1127.

§ 1143 (Amdt. 1901, p. 290). Jury fees. Unconstitutional.—*Powell vs. Phelan*, 138 Cal. 271-273, 71 Pac. Rep. 335.

§ 1239, subd. 3. As to residence in a precinct, as then existing, ceased to be law upon adoption of the Const. 1879.—*Russell vs. McDowell*, 83 Cal. 70, 22 Pac. Rep. 183. But this section is amended by Stats. 1897, ch. CXXXI.

§ 1543. The provision of this section giving custody of school moneys, in cities having board of education, to city treasurer, as enacted in 1893 (Stats. 1893, pp. 240, 241), held unconstitutional in *Brush vs. Colombet*, 104 Cal. 347, 350, 38 Pac. Rep. 45. But this objection is removed by amendment of 1895.

§§ 1617, 1793. Powers of school trustees, etc.—See dissenting opinion in *Kennedy vs. Board Education*, 82 Cal. 483, 493, 22 Pac. Rep. 1042.

§ 1618. As attempted to be enacted (amendments of 1880, 100), held unconstitutional.—*Earle vs. Board Education*, 55 Cal. 489. It has been repealed—in 1889.

§§ 2521, 2522. San Francisco Harbor Commissioners. See dissenting opinion in *Ford vs. Harbor Commissioners*, 81 Cal. 19, 22 Pac. Rep. 278.

§ 2569, subd. 6. Power to impose fines and penalties is held unconstitutional in *Harbor Commissioners vs. Redwood Co.*, 88 Cal. 491, 22 Am. St. Rep. 321, 26 Pac. Rep. 375.

§ 2641. Compensation, supervisors. Repealed by County Government Act of 1897.—*Davis vs. Post*, 125 Cal. 210, 57 Pac. Rep. 901.

§ 2872. Bridge franchise. Repealed by Stats. 1881, 76.—*Chico Bridge Co. vs. Sacramento T. Co.*, 123 Cal. 178, 180, 55 Pac. Rep. 780.

§§ 2949 to 2969, inclusive. Immigration.—These sections may be considered as embraced in decision of *People vs. Pacific M. S. S. Co.*, 8 Sawyer C. C. Reports 640, although that decision may also be technically confined to the charges imposed for inspection. From language of “*Transatlantique*” case, cited in this opinion, these sections are in restriction of commerce, and the mere appointment of inspector might be so held.

§ 3005. Making term of office of board of health five years is unconstitutional.—*People ex rel. Davidson vs. Perry*, 79 Cal. 105, 21 Pac. Rep. 423; *Ex parte Keeney*, 84 Cal. 304, 307, 24 Pac. Rep. 34.

§§ 3356 to 3364. Licenses. Became inoperative by reason of § 1, art. XXII, Const. 1879.—*People vs. Martin*, 60 Cal. 153.

§ 3640. Relating to poll-tax. As it stood in 1880 was discriminating and unconstitutional.—*Miller vs. Heilbron*, 58 Cal. 133. But that section was repealed in 1881, and a new section enacted in 1895.

§§ 3665 to 3670, inclusive. Relating to assessment of railways. As they stood in 1880 were special and contrary to general law (C. C. P.) and unconstitutional.—*People vs. Central P. R.*, 83 Cal. 393, 23 Pac. Rep. 303. The sections have been since amended.

§ 3696. Rate of state tax. As it then stood was declared unconstitutional in *Wills vs. Austin*, 53 Cal. 152; *Harper vs. Rowe*, 53 Cal. 233. But has been amended in 1891 and 1893.

§ 3817. Redemption from tax sales. Violates obligation of contract so far as it was intended to affect a sale which took effect prior to this amendment.—*Teralta Land Co. vs. Shaffer*, 116 Cal. 518, 523, 58 Am. St. Rep. 194, 48 Pac. Rep. 613.

§§ 4000 to 4344. County charges, etc. The County Government Act of 1880 purporting to amend these sections was held unconstitutional in *Leonard vs. January*, 56 Cal. 1.

§ 4045, amended in 1883, p. 297. Permanent powers, supervisors. Was repealed by County Government Act of 1883, 299, passed the following day.—*Mendocino Co. vs. Bank of Mendocino*, 86 Cal. 255, 24 Pac. Rep. 1002.

§ 4109. Term of office, election. Repealed by County Government Act.—*Dillon vs. Bicknell*, 116 Cal. 111, 113, 47 Pac. Rep. 937.

§§ 4445 to 4449. Funding municipal debt. As to indebtedness created since adoption of constitution, the constitution prevails and is self-executing.—*City of Los Angeles vs. Teed*, 112 Cal. 319, 323, 44 Pac. Rep. 580.

GENERAL LAWS

OF THE

STATE OF CALIFORNIA

AS IN FORCE AT THE CLOSE OF THE THIRTY-SIXTH
SESSION OF THE LEGISLATURE, 1905.

ACCOUNTANCY.

To create a state board of accountancy and prescribe its powers and duties; to provide for the examination of and issuance of certificates to qualified applicants, with the designation of certified public accountant; and to provide the grade of penalty for violations of the provisions hereof.

(Stats. 1901, 645, ch. CCXIII.)

§ 1. Within thirty days after the passage of this act the governor shall appoint five persons, at least three of whom shall be competent and skilled public accountants who shall have been in practice as such in this state for not less than five consecutive years, to constitute and serve as a state board of accountancy. The members of such board shall, within thirty days after their appointment, take and subscribe to the oath of office as prescribed by the Political Code, and file the same with the secretary of state. They shall hold office for four years, and until their successors are appointed and qualified; save and except that one of the members of the board first to be appointed under this act shall hold office for one year; one for two years; one for three years, and two for four years. Any vacancies that may occur, from any cause, shall be filled by the governor for the unexpired term; provided, that all appointments made after the first year must be made from the roll of certificates issued and on file in the office of the governor.

§ 2. The state board of accountancy shall have its office in the city and county of San Francisco, and its powers and duties shall be as follows:

1. To formulate rules for the government of the board and for the examination of and granting of certificates of qualification to persons applying therefor;

2. To hold written examinations of applicants for such certificates, at least semi-annually, at such places as circumstances and applications may warrant;

3. To grant certificates of qualification to such applicants as may, upon examination, be found qualified in "theory of accounts," "practical accounting," "auditing," and "commercial law," to practice as certified public accountants;

4. To charge and collect from all applicants such fee, not exceeding twenty-five dollars, as may be necessary to meet the expenses of examination, issuance of certificates and conducting its office; provided, that all such expenses, in-

cluding not exceeding five dollars per day for each member while attending the sessions of the board or conducting examinations, must be paid from the current receipts, and no portion thereof shall ever be paid from the state treasury;

5. To require the annual renewal of all such certificates, and to collect therefor a renewal fee of not exceeding one dollar;

6. To revoke for cause any such certificate, after written notice to the holder, and a hearing being had thereon; provided, that such revocation must receive the affirmative vote of at least four members of the board;

7. To report annually to the governor, on or before the first day of December, all such certificates issued or renewed, together with a detailed statement of receipts and disbursements; provided, that any balance remaining in excess of the expenses incurred may be retained by the board and used in defraying the future expenses thereof;

8. The board may, in its discretion, under regulations provided by its rules, waive the examination of applicants possessing the qualifications mentioned in section three, who shall have been for more than three years prior to the passage of this act practising in this state as public accountants on their own account, and who shall, in writing, apply for such certificates within one year thereafter.

§ 3. Any citizen of the United States, or any person who has duly declared his intention of becoming such citizen, residing and doing business in this state, being over the age of twenty-one years and of good moral character, may apply to the state board of accountancy for examination under its rules, and for the issuance to him of a certificate of qualification to practise as a certified public accountant, and upon the issuance and receipt of such certificate, and during the period of its existence, or of any renewal thereof, he shall be styled and known as a certified public accountant or expert of accounts, and no other person shall be permitted to assume and use such title or to use any words, letters or figures to indicate that the person using the same is a certified public accountant.

§ 4. Any violation of the provisions of this act shall be deemed a misdemeanor.

§ 5. This act shall take effect from and after its passage.

ACCOUNTS—SALOON.

To prohibit the collection of accounts for liquors sold at retail.

(Stats. 1873-4, 509, ch. CCCXLV.)

§ 1. The purchase of, or the sale and delivery of any spirituous or malt liquors, wine, or cider, by retail, or by the drink, is hereby declared to be an invalid consideration for any promise to pay, or assumpsit of account therefor, when the amount of such account or demand exceeds five dollars.

§ 2. No court shall, in any action at law, render judgment for a greater amount than five dollars, for the sale at retail, or by the drink, of any spirituous or malt liquors, wine, or cider, together with costs.

§ 3. Nothing in this act shall be construed to affect in any manner debts contracted prior to its passage.

Shain vs. Maxwell, 115 Cal. 210, 46 Pac. Rep. 1069.

RECOVERY FOR INTOXICATING LIQUORS SOLD CONTRARY TO LAW—Cannot be had.—**Iowa.** Taylor vs. Pickett, 52 Iowa 467, 3 N. W. Rep. 514; Quigley vs. Duffey, 52 Iowa 610, 3 N. W. Rep. 659; Gipps Brewing Co. vs. De France, 91 Iowa 108, 58 N. W. Rep. 1087; Fred Miller Brewing Co. vs. Stevens, 102 Iowa 60, 71 N. W. Rep. 186. **Mich.** Loranger vs. Jardine, 56 Mich. 518, 23 N. W. Rep. 203. **Minn.** Theo. Hamm Brewing Co. vs. Young, 76 Minn. 246, 79 N. W. Rep. 111, 396. **Neb.** Tredway vs. Riley, 32 Neb. 495, 49 N. W. Rep. 268;

Storz vs. Finklestein, 46 Neb. 577, 65 N. W. Rep. 195.

Compare: Wagner vs. Breed, 29 Neb. 720, 46 N. W. Rep. 286.

AS TO RECOVERY FOR INTOXICATING LIQUORS, destroyed as a nuisance, see 36 L. R. A. 554.

Same—Sold for use or sale in a brothel.—See 9 L. R. A. 506 and note by Robert Desty.

Same—Shipped into prohibition district in violation of local laws.—See **Iowa.** Wind vs. Iler, 93 Iowa 316, 61 N. W. Rep. 1001. **Mich.** Gambs vs. Sutherland's Estate, 101 Mich. 355, 59 N. W. Rep. 652. **Fed.** Kohn vs. Melscher, 43 Fed. Rep. 641, 10 L. R. A. 439.

ACKNOWLEDGMENTS.

An act to legalize certain acknowledgments.

(Stats. 1897, 29, ch. XXXII.)

§ 1. All acknowledgments of deeds and other instruments of writing, whereby real estate, or any interest therein, is conveyed or may be affected, heretofore taken before court commissioners or a county clerk, and by them or him certified in the usual form, shall, from and after the passage of this act, have the same force and effect for all purposes, as though such acknowledgments had been taken before and certified by a clerk of a court of record, or a county recorder, or a notary public; and the record of such deeds or instruments, if the same shall have been admitted to record, shall hereafter impart notice to the same extent as though such acknowledgments had been taken before and certified by any one of the above-named officers, and said records and duly certified copies thereof shall have the same effect in evidence as though said deeds or instruments had been originally acknowledged and certified before and by duly authorized officers; provided, nothing in this act shall be so construed as in any manner to affect the rights of any subsequent purchaser in good faith and for value.

§ 2. This act shall take effect from and after its passage.

The foregoing act is believed to have superseded an act on the same subject (Stats. 1891, 20, ch. XXXIII), and the present act embraces county clerk, with court commissioner, and embraces the admission in evidence of certified copies of such instruments, which the former act did not do.

The following references to former acts are deemed pertinent:

Legalizing acknowledgments taken before recorders, Stats. 1852, 166.

Legalizing acknowledgments taken before deputy recorders, Stats. 1859, 212.

Correction of acknowledgments, Stats. 1860, 179. In this connection see **KERR'S CYC. CIVIL CODE** § 1202.

Authorizing and validating acknowledg-

ments of state prisoners (with witnesses), Stats. 1862, 496.

Legalizing acknowledgments of married women taken before county clerks, Stats. 1867-8, 203.

Legalizing certain acknowledgments required by the Act of 1866, formation of boards of trade, chambers of commerce, etc., Stats. 1885, 55.

Certificate as evidence of facts requisite to acknowledgments.—**Banning vs. Banning**, 80 Cal. 271, 13 Am. St. Rep. 156, 22 Pac. Rep. 210; cited in **Langenbeck vs. Louis**, 140 Cal. 406, 409, 73 Pac. Rep. 1086.

When not conclusive.—**Le Mesnager vs. Hamilton**, 101 Cal. 532-534, 40 Am. St. Rep. 81, 35 Pac. Rep. 1054.

ACTIONS AGAINST STATE.

See **State—Actions Against.**

ADOPTION.

It is believed that the Statute of 1877-8, 936, ch. DCXXVI, upon this subject has been superseded by amendment of § 224 of the Civil Code (Stats. 1903, 114, ch. CII). As to the relative effect of the Statute of

1877-8, and the provisions of the Civil Code, prior to the amendment of 1903, see *Ex parte Chambers*, 80 Cal. 216, 219, 22 Pac. Rep. 138, and consult **KERR'S CYC. CIVIL CODE** § 224 and note.

ADULTERATION—OF FOODS, ETC.

An act to provide against the adulteration of foods and drugs.

(Stats. 1895, 71, ch. LXXVI.)

This statute has been introduced into the Penal Code, Stats. 1905, 769, ch. DLXXIII, § 4 of the statute being omitted from the codification.

For decisions under the statute, see **KERR'S CYC. PENAL CODE** § 383 and note.

It is believed that the Act of 1895, supra, entirely superseded former enactments on this subject; but see § 9, Stats. 1901, 299-301, ch. CXLI, relating to pharmacy, and **KERR'S CYC. PENAL CODE** § 382, amendment 1903, 351.

See statutes herein: **Aplables, Butter, Cheese, Dairies, Honey, Oleomargarine, Ol-**

ive Oil, Paris Green, Poisons, State Analyst, and notes thereunder.

Constitutionality of statute making possession of criminal.—See note 51 Am. Rep. 347.

Imitation butter, or oleomargarine, power of state to regulate and prohibit sale of.—See notes 1 Am. St. Rep. 644; 85 Am. St. Rep. 400; 1 L. R. A. 51.

Liability for selling noxious and unwholesome.—See note 73 Am. Dec. 165.

Power of state to regulate and prohibit the manufacture and sale of.—See note 10 Am. St. Rep. 423.

ADULTERY—PUNISHMENT FOR.

An act to punish adultery.

(Stats. 1871-2, 380, ch. CCLXXVI.)

This statute has been introduced into the Penal Code, §§ 269a, 269b, Stats. 1905, 657, ch. CDXCVIII.

See *Ex parte Thomas*, 103 Cal. 497, 37 Pac. Rep. 514, and **KERR'S CYC. PENAL CODE** §§ 269a, 269b and notes thereunder.

AGRICULTURAL DISTRICTS.

To form agricultural districts, to provide for formation of agricultural associations therein, and for management and control of the same by the state, and to repeal all acts and parts of acts in conflict with this act.

(Stats. 1897, 304, ch. CCXXV; amended, Stats. 1901, 304, ch. CXLII.)

§ 1. The several counties of this state are divided and classified into agricultural districts and numbered as follows, to wit:

The counties of San Francisco and Alameda shall constitute agricultural district No. 1.

The county of San Joaquin shall constitute agricultural district No. 2.

The county of Butte shall constitute agricultural district No. 3.

The counties of Sonoma and Marin shall constitute agricultural district No. 4.

The counties of San Mateo and Santa Clara shall constitute agricultural district No. 5.

The county of Los Angeles shall constitute agricultural district No. 6.

The county of Monterey shall constitute agricultural district No. 7.

The county of El Dorado shall constitute agricultural district No. 8.

The county of Humboldt shall constitute agricultural district No. 9.

The county of Siskiyou shall constitute agricultural district No. 10.

The counties of Plumas and Sierra shall constitute agricultural district No. 11; provided that the first fair held in the eleventh agricultural district after the

passage of this act shall be held in Sierra County; the next fair in Plumas County, and thereafter said counties shall so alternate in holding such fairs.

The county of Lake shall constitute agricultural district No. 12.

The counties of Sutter and Yuba shall constitute agricultural district No. 13.

The county of Santa Cruz shall constitute agricultural district No. 14.

The county of Kern shall constitute agricultural district No. 15.

The county of San Luis Obispo shall constitute agricultural district No. 16.

The county of Nevada shall constitute agricultural district No. 17.

The counties of Mono, Inyo, and Alpine shall constitute agricultural district No. 18.

All that portion of Santa Barbara County lying east of the Gaviota and south of the Santa Ynez mountains, shall constitute agricultural district No. 19.

The county of Placer shall constitute agricultural district No. 20.

The counties of Fresno and Madera shall constitute agricultural district No. 21.

The county of San Diego shall constitute agricultural district No. 22.

The county of Contra Costa shall constitute agricultural district No. 23.

The counties of Tulare and Kings shall constitute agricultural district No. 24.

The county of Napa shall constitute agricultural district No. 25.

The county of Amador shall constitute agricultural district No. 26.

The counties of Shasta and Trinity shall constitute agricultural district No. 27.

The counties of San Bernardino and Riverside shall constitute agricultural district No. 28.

The county of Tuolumne shall constitute agricultural district No. 29.

The county of Tehama shall constitute agricultural district No. 30.

The county of Ventura shall constitute agricultural district No. 31.

The county of Orange shall constitute agricultural district No. 32.

The county of San Benito shall constitute agricultural district No. 33.

The county of Modoc shall constitute agricultural district No. 34.

The counties of Merced and Mariposa shall constitute agricultural district No. 35.

The county of Solano shall constitute agricultural district No. 36.

All that portion of Santa Barbara County not included in agricultural district No. 19 shall constitute agricultural district No. 37.

The county of Stanislaus shall constitute agricultural district No. 38.

The county of Calaveras shall constitute agricultural district No. 39.

The counties of Yolo and Sacramento shall constitute agricultural district No. 40.

The county of Del Norte shall constitute agricultural district No. 41.

The county of Glenn shall constitute agricultural district No. 42.

The county of Lassen shall constitute agricultural district No. 43.

The county of Colusa shall constitute agricultural district No. 44.

The county of Mendocino shall constitute agricultural district No. 45.
[Amendment, Stats. 1901, p. 304.]

§ 2. Where two or more counties shall constitute an agricultural district, each county shall be represented in the district board of directors by at least two resident citizens, as directors in said board; provided, that when by reason of the formation of a new agricultural district, a director of one district becomes a resident of another, his term of office as director will expire in sixty days after the

formation of the new agricultural district. Whenever the board of directors of two or more agricultural districts shall, by a majority vote of each board, elect to unite, the said several districts may associate as one district, and hold a fair in any of said districts, and may for such purpose draw the appropriation for all of said districts, and expend the same for said fair.

§ 3. Any fifty or more persons, representing a majority of the counties within any one of the districts above constituted, may form an association for the improvement of the material industries within such district, and when so formed, the association shall be known and designated by the name of —— agricultural association, and by such name and style shall have perpetual succession, and shall have power and authority to contract and be contracted with, to sue and be sued, to have and use a common seal, to purchase and hold and lease real estate, with such buildings and improvements as may be erected thereon, and may sell and lease and dispose of the same at pleasure. The said real estate, except as hereinafter provided, shall be used by such association for the purpose of holding exhibitions of horses, cattle, and other stock, and of the agricultural, horticultural, viticultural, mechanical, manufacturing, and domestic products of such district, with a view to the improvement of all industries in the same. But the said association shall have the power, and are hereby authorized, to sell and convey any portion of the real estate held by it, by whatever title derived, which may not be necessary for the permanent use of said association for the purposes aforesaid.

§ 4. The officers of such association shall consist of eight directors, who shall constitute a district board of agriculture for district number ——; a president, who shall be one of their number, and a secretary and treasurer, not of their number.

§ 5. Within ten days after the formation of any new agricultural association within any of the districts above constituted in accordance with the provisions of this act, and notice of such formation to the governor, the governor shall appoint eight resident citizens of such district as members of a district board of agriculture for said district, whose term of office shall be four years, except as hereinafter provided.

§ 6. Within ten days after their appointment, the persons so appointed shall qualify as required by the constitution, and shall meet at a place within the district and organize by the election of one of their number as president of the board and association, who shall hold said office of president one year, and until his successor is elected; they shall also elect a secretary and treasurer.

§ 7. At the same meeting the members of the board shall, by lot or otherwise, classify themselves into four classes of two members each. The term of office of the first class shall expire at the end of the first fiscal year; of the second class, of the second fiscal year; of the third class, of the third fiscal year; and of the fourth class, at the end of the full term of four years. The fiscal year shall be from December first to December first; provided, that all officers of agricultural districts now in office, under any law heretofore passed, shall hold office for the term for which they were appointed, except in cases specified in section two of this act. And the agricultural associations heretofore established shall be continued in force, and, so far as applicable, are made agricultural associations under this act.

§ 8. Each association so formed and organized is hereby declared, and shall be recognized, a state institution, and the board so appointed and qualified shall have the exclusive control and management of such institution, for and in the name of the state, and shall have possession and care of all the property of the association, and shall fix the terms of office and the bonds of the secretary and treasurer, and determine their salaries and duties. They shall have the power to make all necessary by-laws, rules, and regulations for the government of the association and the management of its prudential and financial affairs. They shall provide for an annual fair or exhibition by the association of all the industries and industrial products in the district, at such time and place as they deem advisable; provided, that the state shall, in no event, be liable for any premium offered or award made, or for any debt contracted by any district board of agriculture, or agricultural association; and provided further, that nothing in this section shall be so construed as in any way to affect or modify any of the provisions of section eleven.

§ 9. When any district board of agriculture shall have been classified and organized as herein provided, the secretary of the board shall report such classification and organization to the state board of agriculture. He shall also report the same to the governor, and shall report any vacancy that may occur in the board to the governor, who shall fill the same, by appointment, for the unexpired term.

It shall be the duty of each district association formed under this act, to report to the state board of agriculture, on or before January first of each year, a detailed financial statement, together with a complete statistical review of the agricultural resources of each county in the district, for the year ending December thirty-first. Said review to contain the acreage and yield of all agricultural productions for the year previous, and such other data as may be asked for by the state board of agriculture in the furtherance of its duties.

§ 10. Whenever any such association shall desire to sell any portion of its real estate not needed for the permanent use of the association, for the purposes specified in section three, and such real estate be held by such association under a deed or deeds of trust conveying the said lands in trust, to be held in perpetuity as a place for holding agricultural exhibitions or fairs, or for other permanent purposes of such association, it shall be lawful for such association to file its complaint in the superior court of the county in which such lands are situated, setting forth the nature of the title under which they are held, and that it is the desire of the said association to sell and dispose of such real estate, and praying for judgment authorizing it to sell and convey the same. In such action the trustee or trustees in such deed or deeds, or the survivor or survivors of them, or the heirs, or administrators, or executors of deceased trustees, as the case may require, shall be made parties defendant; and upon service of the summons upon such defendants, personally or by publication, or upon their appearance, the court shall have full jurisdiction in the premises, and the deed executed under and in pursuance of the judgment of the court shall be valid and effectual to convey to the purchaser the title of said association, and that of all of its predecessors in title made parties to the suit.

§ 11. Every such association organized and existing under the laws of the state, and which has heretofore issued certificates of the capital stock of such

association, and which certificates last mentioned have been accepted by the members of such association in lieu of certificates of membership therein, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner and with like effect as corporations formed under the provisions of chapter one, article one, of the Civil Code, relating to the formation of corporations. In order to effect such change, a meeting of the holders of such alleged certificates of capital stock may be called, at which the holders of such alleged stock shall be entitled to one vote for each share of such stock appearing in their names, respectively, upon the books of such association. Upon the receipt of a written application, signed by the holders of one fourth of the shares of such alleged capital stock of such association, requesting him so to do, the secretary of such association shall give notice of the time and place of holding such meeting, by publication in some newspaper printed and published in such county, or city and county, in which the principal place of business of such association is located, at least once a week for three successive weeks next prior to the holding thereof. Such notice shall state that the object of the meeting is, (1) to determine whether such corporation elects to have a capital stock as provided by this act; (2) the amount of such capital stock, and (3) the number of shares into which the same shall be divided. At such meeting, should the holders of a majority of the shares of such alleged capital stock vote in favor of having a capital stock, and fix the amount thereof, and the number of shares into which it shall be divided, then such corporation shall issue certificates of capital stock to the amount fixed at such meeting, divided into the number of shares provided by said meeting, to the holders of such alleged capital stock, in the same proportion as such alleged stock appears in the names of such holders, respectively, upon the books of such association. A copy of the notice calling such meeting, the affidavit of publication thereof, the proceedings of such meeting, the amount of capital stock voted, number of shares into which the capital stock was divided, and to whom assigned, duly certified by the chairman of such meeting, and the secretary of such association, under the seal thereof, must be filed with the secretary of state and the clerk of the county where such association has its principal place of business. Thereafter such association shall be possessed of all rights and powers, and shall be subject to all the obligations and restrictions, as if it had been originally created a corporation with a capital stock, including the right to elect a board of directors authorized to exercise such control of all the property of such association, as provided in chapters one, two, three, and four of the Civil Code, relating to corporations: provided, such association shall have no authority to sell any portion of the real estate owned and held by it, by whatever title derived, which may be necessary for the permanent use of such association, for the purposes aforesaid; and provided further, that in the event that such association, after the issuance of a capital stock as aforesaid, shall be offered aid at any time from the state by appropriation, for the purpose of holding an annual district fair, and such association, by a vote of the board of directors, elected as hereinafter provided, adopts a resolution accepting such appropriation, then and in that event said annual fair shall be held under the control and management of the district board of agriculture of such district; but said district board of agriculture shall have no other authority, control, or management of

or over the property of such association, and the authority which it may exercise over said property shall continue only during the time occupied in holding the said district fair, which time shall not extend over more than one week annually.

When any corporation has elected to issue capital stock under this act, the president thereof shall, within ten days after filing with the secretary of state of the certificate hereinbefore provided, call a meeting of the stockholders of such corporation, for the purpose of electing a board of directors of such corporation, which board of directors shall hold their office until their successors are elected and qualified, and thereafter a board of directors of such corporation shall be elected annually, on the day of the month upon which the election of said first board of directors elected as aforesaid is held, unless a different day for holding such election is fixed by the board of directors of such corporation, by its by-laws, properly adopted.

§ 12. All acts or parts of acts in conflict with this act are hereby repealed.

§ 13. This act shall take effect from and after its passage.

History: These societies were first provided for in this form by Statute 1880, 233. The amendments have been as follows: 1883, 30; 1885, 39, 126; 1887, 80; 1889, 78; 1891, 138; 1893, 283; 1895, 14-100; all of which are supposed to be superseded by the foregoing

Act of 1897, 304, as amended in 1901. An Act of 1859, several times amended, provided for agricultural societies which might be formed by any seven persons. See Stats. 1859, 104; 1862, 37; 1869-70, 31; 1877-8, 84.

AGRICULTURE—CEREAL CROPS.

To provide for the improvement of the cereal crops of California and appropriating money therefor.

(Stats. 1905, 128, ch. CXXVI.)

§ 1. The governor of the state of California is hereby directed, and it is hereby made his duty to cause to be made under the supervision and direction of the director of the agricultural experiment station of the University of California, such investigation and experiments as he may deem best, for the purpose of discovering and making known such improved methods of cereal culture in the state of California as will increase the yield of cereals in said state, and increase the percentage of gluten in said cereals, or otherwise improve the quality thereof. The said governor shall have the exclusive charge and control of all moneys appropriated hereby, to be used in employing such expert and scientific assistants as he may deem necessary, and for the paying of the expenses of carrying on the experiments and investigations herein provided for. He shall from time to time publish the results of such experimental and investigational work as may have been done, for general distribution.

§ 2. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to be paid to the governor to be used for the purposes of this act, one half thereof to be expended during the fifty-seventh fiscal year, and one half thereof to be expended during the fifty-eighth fiscal year; and the controller is hereby directed to draw his warrant on the general fund from time to time for such proportion of said sum of ten thousand dollars, and in

favor of such persons as the governor shall direct; and the state treasurer is hereby empowered and directed to pay the same.

§ 3. This act is exempted from the provisions of section six hundred and seventy-two of the Political Code.

§ 4. This act shall take effect and be in force from and after the date of its passage.

See tit. Hops.

AGRICULTURAL SOCIETIES—STATE.

To authorize state agricultural societies under the control of the state to sell property held by them in fee, or held by trustees for their use, or in which they may have any interest; to prescribe a course of procedure therefor; to indemnify purchasers at such sale, and to direct how the proceeds shall be applied.

(Stats. 1897, 30, ch. XXXIV; amended 1899, 106, ch. XCII.)

§ 1. Whenever any state agricultural society under state control shall desire to sell the whole or any portion of its real estate held by it in fee, or by a trustee for its use, or in which it may have any title, interest, or claim, it shall be lawful for such society or association to file its complaint in the superior court of the county in which such lands are situated, setting forth the nature of the title under which the land to be affected by the decree of the court is held, and what claim such society or association has therein; and that it is the desire of such society or association to sell such real estate, and praying for judgment authorizing it to sell the same. In such action the trustee or trustees holding title in trust for such society or association, or their successors, or the survivor or survivors of them, or such other persons deriving title from the trustees, as the case shall require, shall be made parties defendant; and upon the service of the summons upon such defendants personally or by publication, or upon their appearance, the court shall have full jurisdiction in the premises. Such society or association may include as defendants in such action in addition to such persons or parties as appear of record to have, and other persons or parties who are known to have, some claim in or lien on the lands described in the complaint; also all other persons or parties unknown, claiming any right, interest, or lien in such land, and the plaintiff may describe such defendants in the complaint as follows:

“Also all other persons or parties, unknown, claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein.” Service of the summons may be had upon all such unknown persons or parties defendant by publication, as provided by law in case of non-resident defendants. All such unknown persons or parties so served shall have the same rights as are provided by law in case of all the other defendants upon whom service is made by publication or personally and the action shall proceed against such unknown persons or parties in the same manner as against the defendants who are named, upon whom service is made by publication, and with like effect; and any such unknown persons or parties who have or claim any right, estate, lien, or interest in the said property in controversy at the time of the commencement of the action, duly served as aforesaid, shall be bound and concluded by the judgment in such action as effectually as if the action was

brought against such defendant by his or her name, and personal service of the summons obtained, notwithstanding any such unknown person may be under legal disability. The court shall have full power and authority to order the property sold. In case of a sale, the court shall appoint a commissioner to make the sale, and shall direct the manner in which the sale shall be conducted; provided, that when any property is held in trust by any such agricultural society or association, such property held in trust shall be sold separately from any that may be held in fee. The commissioner shall make a report of sale to the court, which, after such notice as it may deem proper, shall proceed to hear the same, and if it finds that the sale was fairly conducted, and the price bid was proportionate to the value of the land sold, it shall make and enter a decree confirming the sale, and directing the commissioner to execute a deed to the purchaser. The deed executed by said commissioner, under and in pursuance of the decree of the court, shall be valid and effectual to convey to the purchaser an absolute title in fee simple to the premises; provided, however, that before the filing of any such complaint in the superior or any other court, it shall be necessary for such agricultural society, or any person or corporation claiming the title to such land, to prepare, sign, and properly acknowledge a good and sufficient deed or deeds sufficient to vest in the state all title, interest, or claim which such society may have in and to any land to be affected by the proceedings hereby authorized to be instituted; such deed or deeds to be conditioned that the title, claim, or interest of such society embraced in such deed or deeds shall be held by the state of California in trust for the benefit of such society; which said deed or deeds shall be deposited with the state treasurer, to be by him held in escrow pending the final conclusion of such proceedings in such court. If the court in which such proceedings are had shall order such land to be sold, as herein provided for, the state treasurer shall forthwith file such deed or deeds with the county recorder of the county, or city and county, in which such land is located. If there be any liens upon or claims against the property, the court shall order them paid out of the proceeds of sale. The residue remaining, after paying the costs and expenses of sale and such liens and claims against the property as the court may order paid, shall be paid into the state treasury, where it shall remain until required for the purchase of other property for the use of such society or association, upon the order of the state controller; and it shall be drawn therefrom only upon authorization passed by the board of directors or trustees of such society or association, by and with the approval of the state board of examiners, and upon warrants duly drawn by the state controller. If, through any defects in the proceedings, or otherwise, the title should not pass, the state will indemnify the purchaser by repaying to him the amount paid by him; provided, such purchaser or purchasers shall file their claim or claims for the repayment of such purchase price with the state board of examiners within five years after the payment of such purchase price to the state treasurer in the first instance. The surplus of proceeds of sale, paid into the state treasury, shall be drawn out on certificate, signed by a majority of the directors, or governing body of such society or association, and also of the state board of examiners, stating that it is desired for the payment for other property for the use of such agricultural society; and upon receipt of such certificate, the treasurer shall pay to the said direc-

tors, or governing body, or person designated by them, all or such part of such surplus as may be required for the purchase of other property; provided, however, that if all or any portion of the real estate, and the improvements thereon held by any state agricultural society under state control, shall have been acquired in the name of such society, or of any person, association, or corporation, in trust for the use of said, or any other agricultural society, originally, or at any time, by the use of money derived from taxation of the taxable property of any city and county, county, or city, then, and in that event, the surplus proceeds of any sale of such property shall be invested in other real estate, within the same county, or city and county, for the same purpose, and not otherwise, or elsewhere. It is expressly provided that in no event shall the state be liable for the payment of any expense, interest, or attorneys' fees, incurred by any one, on any account, by or on behalf of any such agricultural society in their behalf; and it shall be incumbent on such society to make provision for the payment of the expenses, costs, attorneys' fees, and any interest that may be necessary to be paid any purchaser, by reason of repayment of any purchase money on account of failure of title to such lands; such provision for the payment of expenses, attorneys' fees, costs, and anticipated interest to be provided for prior to the issue of any summons, or order of publication in any action contemplated by this act. [Amended, Stats. 1899, 106.]

§ 2. If any real estate contemplated in the preceding section, purchased by the proceeds of taxes levied upon and collected from the taxable property of any city and county, county, or city, shall have been ordered sold, as in said section provided, and shall have been offered for sale in the mode therein specified, for a period of sixty days or more, and not all sold for want of an adequate price, the board of directors, or governing body of such society or association, shall be, and they are hereby authorized and empowered to exchange all or any part of such real estate for other land suitable for the use of such society, or association, within the same county, or city and county, upon such terms as may be reasonable and just, and the deed or deeds executed for the conveyance of such real estate in exchange shall be executed by the board of directors of such society or association, or a majority thereof, and by the commissioner appointed in the proceedings provided for in the preceding section for the sale of such property, and such exchange of property shall be subject to, and with the approval of a judge of the superior court of the county, or city and county, in which the proceedings provided for were had. [New sec. Stats. 1899, 108.]

§ 3. In case of the exchange of any portion of such property, as provided for in section two hereof, the real estate received in such exchange shall be subject to the indemnification of any person who shall receive any of the said real estate of said agricultural society in such exchange in case of any defect in the proceedings, or otherwise, whereby the title to such real estate of such society should not pass, and in such case of exchange the state of California shall be absolved from any obligation to pay any part of any purchase price, or value of exchanged property; provided further, that no claims for failure of title for any reason shall be entertained after five years from the date of such exchange. [New sec. Stats. 1899, 109.]

§ 4. This act shall take effect immediately from and after its passage.

While the later act purports to "amend" the Act of 1897, it will be seen that it, in effect, entirely supersedes the former act. See California State Agricultural Society.

ALAMEDA COUNTY—ADDITIONAL JUDGE.

To provide for an additional judge of the superior court of the county of Alameda.

(Stats. 1901, 295, ch. CXXXIV.)

§ 1. The number of the judges of the superior court of the county of Alameda is hereby increased from four to five.

§ 2. Within ten days after the passage of this act the governor shall appoint one additional judge of the superior court of the county of Alameda, who shall hold office until the first Monday after the first day of January, A. D. nineteen hundred and three; and at the next general election one judge of said court, in addition to the present number provided by law for said county, shall be elected to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said one additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as that of the other judges of the superior court of said county now authorized by law.

§ 4. This act shall take effect immediately from and after its passage.

The number of judges for this county was increased by Stats. 1881, 19, ch. XXIV; and again by Stats. 1893, 3, ch. V.

ALIENS—PUBLIC SERVICE.

To secure to native-born and naturalized citizens of the United States the exclusive right to be employed in any department of the state, county, city and county, or incorporated city or town government in this state.

(Stats. 1901, 589, ch. CLXXXV.)

§ 1. No person, except a native-born or naturalized citizen of the United States, shall be employed in any department of the state, county, city and county, or incorporated city or town government in this state.

§ 2. It shall be unlawful for any person, whether elected, appointed or commissioned to fill any office in either the state, county, city and county, or incorporated city or town government of this state, or in any department thereof, to appoint or employ any person to perform any duties whatsoever, except such person be a native-born or naturalized citizen of the United States.

§ 3. No money shall be paid out of the state treasury, or out of the treasury of any county, or city and county, or incorporated city or town, to any person employed in any of the offices mentioned in section two of this act, except such person shall be a native-born or naturalized citizen of the United States.

§ 4. This act shall take effect immediately.

See Stats. 1880, 23, ch. XXXIV, which is doubtless superseded by this statute. See Civil Rights; Rights of Persons.

ALTURAS—TOWN OF.

To change the name of a town in Modoc County.

(Stats. 1875-6, 513, ch. CCCLXXI.)

§ 1. The name of the town of Dorris Bridge, in the county of Modoc, shall hereafter be known as Alturas.

§ 2. This act shall take effect on the first Monday in June, A. D. eighteen hundred and seventy-six.

See **Municipal Corporations.**

ALVISO—TOWN OF.

See **Municipal Corporations.**

ANALYSIS—FOODS, WATERS, ETC.

See **Adulteration; State Analyst.**

ANIMALS—ADMINISTERING DRUGS TO.

To prevent tampering with animals, and to prevent the giving or administering of poison or drugs to horses, cattle, dogs, animals, and other live stock, except for medicinal purposes, and making the same a misdemeanor.

(Stats. 1901, 553, ch. CLXVIII.)

§ 1. It shall be unlawful for any person or persons, except for medicinal purposes, to administer any poison, drug, medicine, or other noxious substance, to any horse, stud, mule, ass, mare, horned cattle, neat cattle, gelding, colt, filly, dog, animals, or other live stock, entered or about to be entered in any race or upon any race-course in the state of California, or entered or about to be entered at or with any agricultural park, or association, race-course, or corporation, or other exhibition for competition for prize, reward, purse, premium, stake, sweepstakes, or other reward, or to expose any such poison, drug, medicine, or noxious substance, with intent that the same shall be taken, inhaled, swallowed, or otherwise received by any horse, stud, mule, ass, mare, horned cattle, neat cattle, gelding, colt, filly, dog, animal, or other live stock, with intent to impede or affect the speed, endurance, sense, health, physical condition, or other character or quality of such above mentioned animal, or other live stock.

§ 2. It shall be unlawful for any person or persons to cause to be taken by or placed upon or in the body of any horse, stud, mule, ass, mare, horned cattle, neat cattle, gelding, colt, filly, dog, animal, or other live stock, entered or about to be entered in any race upon any race-course in the state of California, or entered or about to be entered at or with any agricultural park, association, race-course or corporation, or other exhibition for competition for prize, reward, purse, premium, stake, sweepstakes, or other reward, any sponge, wood, or foreign substance of any kind, with intent to impede or affect the speed, endurance, sense, health, physical condition, of such horse, stud, mule, ass, mare, horned cattle, neat cattle, gelding, colt, filly, dog, animal, or other live stock.

§ 3. Any person or persons who shall violate any of the provisions of sections one or two of this act shall be guilty of a misdemeanor.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. This act shall take effect immediately.

See next following statutes.

ANIMALS—CONTAGIOUS DISEASES.

To prevent the spread of contagious or infectious diseases among domestic animals.

(Stats. 1893, 302, ch. CCXIX.)

§ 1. Any person or persons, company or corporation, owning or having possession or control of any animal affected by any contagious or infectious disease, who shall fail to keep the same within an inclosure, or herd the same in some place where they will be secure from contact with other animals of like kind not so affected, or who shall suffer such infected animals to be driven on the public highway or to range where they will be likely to come in contact with other animals not so affected, shall be guilty of a misdemeanor, and, on conviction, punished by a fine of not more than five hundred dollars for each offense.

§ 2. This act shall take effect immediately.

See **Animals; Sheep; State Veterinarian;** and see next succeeding statute herein.

IMPORTATION OF DISEASED ANIMALS, validity of state laws regulating.—See monographic note, 97 Am. St. Rep. 262, 249.

QUARANTINE OF DISEASED ANIMALS.

See monographic note, 47 Am. St. Rep. 533, 552; also 27 Am. St. Rep. 567.

TRANSPORTING INFECTED CATTLE.—See 26 L. R. A. 638.

Same—Communicating Texas fever during.—See 48 L. R. A. 175.

ANIMALS—CONTAGIOUS DISEASES.

To prevent the spread of contagious diseases among animals.

(Stats. 1905, 317, ch. CCCIII.)

§ 1. Any person having the care, custody or control of any animal that dies from tuberculosis, glanders, farcy, Texas fever, or other infectious disease, shall immediately upon the death of such animal cremate or bury the same, or cause the same to be cremated or buried.

§ 2. Any common carrier of persons or freight that shall transport any animal suffering with or that has died from the diseases, or any of them, mentioned in section one of this act a greater distance than is necessary to transport such animal to the nearest crematory, shall be deemed guilty of a misdemeanor.

§ 3. No animal that has died of any of the diseases named in section one of this act, shall be sold, used or permitted to be used for the food of human beings or sold, used or permitted to be used for the food of any domestic animal or fowl.

§ 4. Any person, firm or corporation that shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon a conviction thereof shall be punished by a fine of not less than fifty dollars and not more

than five hundred dollars, or by imprisonment in the county jail for a term not exceeding one hundred and eighty days, or by both such fine and imprisonment.

§ 5. This act shall take effect immediately.

See note preceding title.

ANIMALS—CRUELTY TO.

For the more effectual prevention of cruelty to animals.

(Stats. 1873-4, 499, ch. CCCXL; amended 1901, 285, ch. CXXIII; 1903, 69, ch. LXIII; 1905, 498, ch. CCCLXXXIX.)

§ 1. Any three or more citizens of the state of California, who have heretofore, or who shall hereafter, incorporate as a body corporate, under the general laws for incorporations in this state, for the purpose of preventing cruelty to animals, may avail themselves of the privileges of this act; provided, that the corporate body first formed as aforesaid in any county, shall be the only one so entitled to the benefits and privileges of this act in said county, and such society or corporation, when organized, shall have power to take and hold by gift, purchase, grant, devise or bequest any property, real or personal, and to use and dispose of the same at pleasure. But such corporation shall not in its corporate capacity, hold real estate the yearly income derived from which shall exceed the sum of ten thousand dollars. [Amendment, Stats. 1905, 498.]

§ 2. The said societies may make and adopt by-laws governing the admission of associates and members, providing for all meetings, and for assistant and district or local officers; providing, also, for means and systems for the effectual attainment of the objects contemplated by this act; for the regulation and management of its business affairs, and for the effectual working of the societies; prescribing, also, the duties of all their officers; for the outlay of all moneys and the auditing all accounts; provided, that such by-laws shall not conflict with the laws of the state of California, or of the United States, or with any provisions of this act.

§ 3. Said societies shall elect officers and fill vacancies according to the provisions of their by-laws.

§ 4. All sheriffs, constables, police and peace officers are empowered and directed to make arrests for the violation of any of the provisions of this act, which by this act is denominated a misdemeanor, in the same manner as is by law provided for arrests in all cases of misdemeanors. [Amendment, Stats. 1901, 285.]

§ 5. All members and agents, and all officers of each or any of the societies so incorporated, as shall by the trustees of said societies be duly authorized in writing, approved by a judge of the superior court of the county, and sworn in the same manner as are constables and peace officers, shall have power to lawfully interfere to prevent the perpetration of any act of cruelty upon any dumb animal, and may use such force as may be necessary to prevent the same, and to that end may summon to their aid any bystander; they may make arrests for the violation of any of the provisions of this act in the same manner as is herein provided for other officers; and may carry the same weapons that

such officers as are named in section four of this act are authorized to carry; provided, that all such members and agents shall, when making such arrests, exhibit it and expose a suitable badge to be adopted by said society. All persons resisting said specially appointed officers, as such, shall, upon conviction, be deemed guilty of a misdemeanor. [Amendment, Stats. 1901, 285.]

§ 6. Any person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink or shelter, or to be cruelly beaten, mutilated or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the same, or in any manner abuses any animal, or fails to provide the same with proper food, drink, shelter or protection from the weather, or who cruelly drives, rides or otherwise uses the same when unfit for labor, shall for every such offense, upon conviction, be deemed guilty of a misdemeanor. [Amendment, Stats. 1901, 285.]

§ 7. If any person shall carry, or cause to be carried, in or upon any vehicle, or otherwise, any domestic animal, in a cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, shall, upon conviction, be deemed guilty of a misdemeanor; and whenever any such person shall be taken into custody therefor by any officer, such officer may take charge of such vehicle and its contents, together with the horse or team attached to said vehicle and deposit same in some safe place of custody; and any necessary expenses which may be incurred for taking care of and keeping the same, shall be a lien thereon, to be paid before the same can be lawfully recovered; and if the said expenses, or any part thereof, remain unpaid, they may be recovered, by the person incurring the same, of the owner of said domestic animal, in any action therefor.

§ 8. Any person who shall cause any bull, bear, cock, dog, or other animal to fight, for his amusement or for gain, worry or injure each other; or any person who shall permit the same to be done on any premises under his charge or control; and any person who shall aid, abet, or be present at such fighting and worrying of such animal, as a spectator, shall, upon conviction, be deemed guilty of a misdemeanor.

§ 9. Whoever owns, possesses, keeps, or trains any bird or animal, with the intent that such bird or animal shall be engaged in an exhibition of fighting, or is present at any place, building, or tenement, where preparations are being made for an exhibition of the fighting of birds or animals, with the intent to be present at such exhibition, or is present at such exhibition, shall, upon conviction, be deemed guilty of a misdemeanor.

§ 10. When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of law relating to or in any way affecting dumb animals, are being or are about to be violated in any particular building or place, such magistrate

shall issue and deliver immediately a warrant directed to any sheriff, constable, police officer, or officer of any incorporated association, qualified as provided in the fifth section of this act, authorizing him to enter and search such building or place, and to arrest any person or persons there present violating or attempting to violate any law relating to or in any way affecting dumb animals, and to bring such person or persons before some court or magistrate of competent jurisdiction, within the city, city and county, or township within which such offense has been committed, to be dealt with according to law, and such attempt shall be held to be a violation of section six of this act. [Amendment, Stats. 1901, 286.]

§ 11. Any sheriff, constable, police or peace officer, or officer qualified, as provided in section five of this act, may enter any place, building or tenement, where there is an exhibition of the fighting of birds or animals, or where preparations are being made for such an exhibition, and, without a warrant, arrest all persons there present.

§ 12. Any person who shall impound, or cause to be impounded in any pound any domestic animal, shall supply the same during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, shall, upon conviction, be deemed guilty of a misdemeanor. In case any domestic animal shall be at any time impounded, as aforesaid, and shall continue to be without necessary food and water for more than twelve consecutive hours, it shall be lawful for any person, from time to time, as it shall be deemed necessary, to enter into and upon any pound in which any such domestic animal shall be confined, and supply it with necessary food and water so long as it shall remain so confined. Such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

§ 13. Every owner, driver, or possessor of any animal, who shall permit the same to be in any building, inclosure, lane, street, square, or lot, of any city, city and county, or township, without proper care and attention, shall, on conviction, be deemed guilty of misdemeanor. And it shall be the duty of any peace officer, or officer of the humane society, to take possession of the animal so abandoned or neglected and care for the same until it is redeemed by the owner or claimant, and the cost of caring for such animal shall be a lien on the same until the charges are paid. Every sick, disabled, infirm, or crippled animal which shall be abandoned in any city, city and county, or township, may, if after due search no owner can be found therefor, be killed by such officer; and it shall be the duty of all peace officers, or an officer of said society, to cause the same to be killed on information of such abandonment. Such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in the custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until it is deemed to be in a suitable condition to be delivered to such owner, and any necessary expenses which may be incurred for taking care of and keeping the

same shall be a lien thereon, to be paid before the same can be lawfully recovered. [Amendment, Stats. 1901, 286.]

§ 14. It shall be the duty of the society first organized and incorporated as herein provided, in each city and county, or county, to actively engage in enforcing the provisions of this act, and arresting and prosecuting offenders thereunder, and in preventing cruelty to animals. Every person convicted of any misdemeanor under this act, shall be punished as in law provided for the punishment of misdemeanors, and all fines and forfeitures imposed and collected in any county, or city and county, under the provisions of this act shall inure to the society in said county, or city and county, organized and incorporated as herein provided, in aid of the benevolent object for which it is incorporated, and in addition to said fines, the said society so organized and incorporated, may, in each city, or city and county, or county, where such society exists, while actively engaged in enforcing the provisions of this act, or arresting, or prosecuting offenders thereunder, or preventing cruelty to animals, be paid, as compensation therefor, from the county, or city and county, general fund by the board of supervisors, a sum not to exceed one hundred and fifty dollars per month, in the same manner as other claims against said county, or city and county, are paid. [Amendment, Stats. 1903, 69; also, Stats. 1901, 287.]

§ 15. All prosecutions for the violation of any of the provisions of this act shall be conducted and prosecuted in a court of competent jurisdiction, and any member of said society authorized, as provided in section five of this act, may appear and prosecute in any of said courts, for any violation of any of the provisions of this act, whether or not he be an attorney or counselor at law; provided, that all such prosecutions shall be conducted in the name of the people of the state of California.

§ 16. In this act the singular shall include the plural; the word "animal" shall be held to include every living dumb creature; the words "torture," "torment," and "cruelty," shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted, and the words "owner" and "person" shall be held to include corporations as well as individuals; and the knowledge and acts of agents of and persons employed by corporations, in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the act and knowledge of such corporations as well as such agent or employees.

§ 17. No part of this act shall be deemed to interfere with any of the laws of this state known as the "game laws," or any laws for the destruction of certain birds; nor shall this act be deemed to interfere with the right to destroy any venomous reptiles, or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill all animals used for food, or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated medical college or university of the state of California.

§ 18. The act entitled "An act for the more effectual prevention of cruelty to animals," approved March thirtieth, eighteen hundred and sixty-eight, and amendments thereto, approved March fifteenth, eighteen hundred and seventy-two, are hereby repealed.

§ 19. This act shall take effect from and after its passage.

§ 20. Whoever shall cut the solid part of the tail of any horse in the operation known as "docking," or by any other operation performed for the purpose of shortening the tail, and whoever shall cause the same to be done, or assist in doing such cutting, shall, upon conviction, be deemed guilty of a misdemeanor. [New sec. Stats. 1901, 287.]

§ 21. Every animal which is unfit, by reason of its physical condition, for the purpose for which such animals are usually employed, and when there is no reasonable probability of such animal ever becoming fit for the purpose for which it is usually employed, shall be by the owner or lawful possessor of the same, deprived of life within twelve hours after being notified by any peace officer, or officer of said society, to kill the same, and such owner, possessor, or person omitting or refusing to comply with the provisions of this section, shall upon conviction, be deemed guilty of a misdemeanor, and after such conviction the court or magistrate having jurisdiction of such offense shall order any peace officer, or officer of said society, to immediately kill such animal; provided, that this shall not apply to such owner keeping any old or diseased animal belonging to him on his own premises with proper care. [New sec. Stats. 1901, 287.]

§ 22. Any person or persons holding a lien or liens against any animal or animals under the provisions of this act may satisfy such lien as follows: If such lien be not paid, by the party or parties responsible, within three days after the obligation becomes due, then the party or parties holding such lien may resort to the proper court to satisfy the claim; or he or they, three days after the charges against such property becomes due, may sell the same, or such undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no paper published in the county, then by posting notices of the sale in three of the most public places in the town or township for three days previous to the sale. Said notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale must be applied to the discharge of the lien and the costs of sale: the remainder, if any, must be paid over to the owner, if known, and if not known must be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. [New sec. Stats. 1901, 287.]

As to what constitutes cruelty to animals, see note 47 Am. Rep. 310.

Dogs within act prohibiting cruelty.—See 39 L. R. A. 709.

See **KERR'S CYC. CIVIL CODE** §§ 607-607g.

Ordinance to prevent, under power to prohibit nuisance.—See 39 L. R. A. 520.

Shooting doves from traps.—See 33 L. R. A. 836.

Shooting pigeons at matches.—See 11 L. R. A. 522.

ANIMALS—CRUELTY TO—BRISTLE BUR.

To prohibit the use of the bristle bur, tack bur, or other like devices on horses or other animals in this state.

(Stats. 1903, 139, ch. CXXIX.)

§ 1. It shall be unlawful hereafter in this state for any one, owner, driver or other person, having the care, custody or control of any horse or other animal, to use what is known as the bristle bur, tack bur, or other like device, by whatsoever name known or designated, on any said horse or other animal for any purpose whatsoever.

§ 2. A violation of the provisions of this act shall be deemed a misdemeanor, and any one found guilty thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail not less than ten nor more than one hundred and seventy-five days, or may be punished by both such fine and imprisonment.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage.

ANIMALS—DOGS.

To protect sheep, Angora goats, etc., and authorizing the killing of dogs found worrying them.

(Stats. 1865-6, 225, ch. CCXXVII.)

Superseded.—See **KERR'S CYC. CIVIL CODE** § 3341; Johnson vs. McConnell, 80 Cal. 545, 22 Pac. Rep. 219. See also subd. 27 § 25 County Government Act of 1897.

ANIMALS—ESTRAY.

Relating to estrays, providing for taking them up and giving a lien on them for all damages, costs, and expenses incurred by reason of taking them up, and repealing all other acts and parts of acts now in force relating to estrays.

(Stats. 1901, 603, ch. CXC VII; amended, Stats. 1905, 395, ch. CCCXXXVIII.)

§ 1. Any person finding at any time any estray domestic animal or animals upon his premises, or upon premises to which he has the right of possession, or upon highways adjacent thereto, may take up the same and have a lien thereon for all expenses incurred and costs in keeping and caring for said animal or animals, as hereinafter provided; and no person shall remove them from the possession of the taker-up, or from the possession of the officer to whom they may have been delivered, except as hereinafter provided.

§ 2. Any person taking up an estray animal, or animals, shall confine the same in a secure place, and shall notify the owner thereof in writing if known or if the owner is unknown within five days file with the county recorder of the county in which such estray is found, a notice containing a description of the animal, or animals, taken up, with the marks and brands, if they have any,

together with the probable value of each animal, and a statement of the place where the taker-up found, and where he has confined the same.

The county recorder shall receive for filing said notice the sum of fifty cents, and shall keep said notice on file in his office for five years, and at the expiration of said period of five years, may return the same to the person at whose request the same was filed, and on the failure of such person, or his representative, to make demand therefor within sixty days after the expiration of said period of five years, may remove the same from the files of said office and destroy the same. [Amendment, Stats. 1905, 395.]

§ 3. At any time within thirty days from the date of the filing of the notice specified in section two of this act, any person claiming such stray animal or animals shall appear and demand from the taker-up the possession thereof, and shall, at the same time, pay to the taker-up all damages, expenses and costs incurred by reason of taking up such animal or animals, and upon receiving such damages, expenses and costs, the taker-up shall immediately deliver to the party claiming such animal or animals the possession thereof. Such damages, expenses and costs shall be estimated as follows, to wit:

1. The total amount paid by the taker-up to the county recorder;
2. The sum of fifteen cents per day for the keeping and care of each horse, mule, jenny, ass, cow, bull, ox, steer, or calf;
3. The sum of five cents per day for the keeping and care of each sheep, goat, hog, or other animal not hereinbefore specified; provided, that the taker-up of said animal or animals must properly feed and water the same while under his care; and if he fail so to do shall forfeit all right of lien thereon.

§ 4. If the party claiming such stray animal or animals is dissatisfied with the amount charged by the taker-up for costs and expenses, he shall tender to the taker-up the proper amount therefor, and if the said tender be refused, the party claiming such stray animal or animals shall within ten days thereafter commence, in the proper court, suit against the taker-up for the recovery of the possession of such stray animal or animals, in which said action the taker-up may set forth his expenses and costs, and said matter, together with accruing expenses and costs to the time of the entry of the judgment, shall be determined by the court in accordance with the provisions of this act, and the amount of all such expenses and costs, and the costs of said action shall be included in any judgment awarded by said court, and such costs in said action shall be in favor of the plaintiff in said action and against said defendant, if the court shall find that the amount tendered by the plaintiff to the defendant was not less than the proper amount: otherwise said costs shall be in favor of the defendant and against the plaintiff. Without the consent of defendant in any such action, no return of such animal or animals shall be adjudged until the plaintiff shall pay to defendant or deposit in court payable to him, the amount of all such expenses and costs in said action; and in case such payment or deposit be not made within ten days after the same shall have been determined by the court, or said action be not prosecuted with diligence; then the said action may be dismissed on motion of defendant without notice; in case of such dismissal, the defendant shall have judgment for his costs. In any such

action for plaintiff to recover, it shall be incumbent on him to establish an existing right in himself to the possession of such animal or animals.

§ 5. If no person appears and claims the animal or animals taken up within thirty days after the filing of the notice hereinbefore mentioned in section three of this act; or if a person does appear and claim the animal or animals taken up within thirty days after the filing of the notice above referred to, but shall fail to pay to the taker-up the expenses and costs as provided in section three of this act, and shall fail to commence and prosecute with diligence an action for the recovery of the possession of such stray animal or animals within the time required by section four of this act; or if said action shall be dismissed; then the taker-up shall, in writing, notify a constable, or other officer of the township or county in which said animal or animals are held, which notice shall specify that he has complied with all the provisions of this act, and that a claimant of said animal or animals has failed to appear and claim the same as herein provided, or if he has appeared that he has failed to pay the expenses and costs and has failed to commence or prosecute with diligence an action for the recovery of the possession of such animal or animals within the time and in the manner provided for in this act, or that said action has been dismissed, and that such animal or animals are held by him subject to sale. Said constable, or officer, shall immediately proceed to sell such animal or animals at public sale, in conformity with the law concerning sales on execution, and shall be entitled to the same fees as are provided by law for sales under execution.

§ 6. Out of the money realized from the sale of estrays, the constable or other officer shall first retain his fees; he shall then pay to the taker-up his expenses and costs estimated as provided in section three of this act, or so much thereof as the funds in his hands will permit, and the surplus, if any, he shall pay to the county treasurer, to be held by him for the owner of the stray or estrays for which it was received in payment. If any person or persons shall, within one year thereafter, prove to the satisfaction of the board of supervisors of the county in which the stray or estrays were sold, that he or they are entitled to the sum so held by the county treasurer, or any part thereof, the said board of supervisors shall order such sum to be paid over to the person or persons; and if not so proven within one year, then the same shall become a part of the common school fund of said county.

§ 7. All sales made by any constable, or other officer, under the provisions of this act, shall convey a good and valid title to the purchaser, and the owner of the stray or estrays so sold shall thereafter be barred from all right to recover the same.

§ 8. The taker-up of an stray animal or animals shall use reasonable care to preserve the same from injury, but if an stray animal or animals die or escape from the possession of the taker-up at any time while he is holding the same under the provisions of this act, the taker-up shall not be held liable in any manner on account of such animal or animals.

§ 9. Nothing in this act shall affect the laws or regulations in force or which may be in force regarding estrays, the poundkeeper, or other pound officer within the limits of any city or town where laws regarding estrays are in force.

§ 10. All other acts and parts of acts relating to estrays now in force, are hereby repealed.

§ 11. This act shall take effect from and after its passage.

See *Animals—Sheep*.

General features and constitutionality of statutes respecting estrays.—See note 8 Am. St. Rep. 271.

See tit. *Trespassing Animals* and note.

ANIMALS—HIDES.

To regulate the disposition of the hides of cattle killed or slaughtered in the state of California.

(Stats. 1893, 235, ch. CXCI.)

§ 1. Any person or persons who shall at any time kill or slaughter, or who shall cause to be killed or slaughtered, any cattle, either for his or their own use and consumption, or for sale, shall retain, or cause to be retained, in their possession, the hides taken off said animals, with the earmarks attached thereto, without any alteration or disfiguration of the brands or marks on said hide or ears, for the period of ten days.

§ 2. Any justice of the peace, constable, owner of cattle, or any other person, may, within the period of time mentioned in the first section of this act, demand an exhibit of the hide or hides of any cattle so killed or slaughtered (as herein provided) by the person so killing or slaughtering the same, or by any other person for whose use or benefit said animal was killed; and upon such demand being made, he or they shall produce the same for the inspection of said justice of the peace, constable, owner of cattle, or any other person.

§ 3. Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty dollars, nor more than one hundred dollars, or be imprisoned in the county jail for any term not less than ten days, nor more than ninety days, or by both such fine and imprisonment.

§ 4. This act shall take effect and be in force from and after its passage.

See *KERR'S CYC. POL. CODE* § 3185, relating to same subject; but no penalty is provided by the code section.

ANIMALS—LIVE STOCK SALES.

To prevent combinations to obstruct the sale of live stock in the state of California.

(Stats. 1893, 30, ch. XIX.)

§ 1. It shall be unlawful for any two or more persons or corporations to combine or agree together to do any act which will, in any respect, prevent any person from buying live stock at any place in this state from any person having the same for sale, either for himself or as the representative or agent of the owner of the same.

§ 2. It shall be unlawful for any corporation organized under the laws of this state, or any board of directors or trustees, or stockholders, or agents, or officers of any corporation, to have, pass, or enforce any rule, by-law, or regulation whereby any officer, stockholder, member, shareholder, agent, servant

thereof, or any other person in any way interested in or connected with such corporation, shall in any respect be prohibited, prevented, or enjoined from buying live stock from any other person having such live stock for sale, either as owner thereof, or as the agent, representative, or assistant of such owner, in any market in this state, where live stock is brought to be sold.

§ 3. Every rule, regulation, or by-law of any corporation doing business in this state, which has for its purpose, or which, directly or indirectly, tends to prevent its members or stockholders from freely purchasing live stock from any person lawfully having the same for sale, upon any live-stock market of this state, are hereby declared to be contrary to the public policy of this state, and unlawful and void; and any person or persons who shall attempt, directly or indirectly, to enforce any such rule, regulation or by-law, shall be deemed guilty of a misdemeanor, and in addition to the penalties prescribed by this act shall be personally liable for all damages which may arise from the enforcement of such rule, regulation, or by-law, to any person damaged thereby.

§ 4. No trusts, combinations, or conspiracies shall be organized or exist in this state, to prevent any person or persons, or corporation, from selling live stock on commission, for such an amount of commission as any person engaged in the business may see fit to charge; and all rules, regulations, by-laws, or agreements of any corporation, association, society, or combination of persons, whereby any such corporation, society, association, or combination of individuals are required to charge not less than a given sum for commissions, or whereby any person or commission merchant is, in any respect, restrained from charging less than a certain fixed sum for his services as such commission merchant in the sale of live stock, are hereby declared to be contrary to the public policy of this state, and unlawful. And any person who shall enter into any such trust, combination, or conspiracy, or who shall enforce or aid, abet, assist, or encourage the enforcement of any such rule, regulation, by-law, or agreement, shall be liable to the penalties prescribed by this act, and also shall be personally liable to any person, individual, society, or corporation who may be injured in his property or business thereby, to the full extent of the injury resulting therefrom.

§ 5. Whoever shall, directly or indirectly, be a party to any combination, conspiracy, or association, which attempts, directly or indirectly, to prevent any other person from freely selling live stock at any market in this state for such persons as see fit to engage his services, or shall endeavor to compel, directly or indirectly, any person to charge not less than a fixed minimum sum for services in the sale of live stock, or shall, in any way, hinder or prevent another from lawfully selling live stock for another, for such rate of commission as may be agreed upon by the owner of the live stock and the commission merchant, shall be deemed guilty of a misdemeanor, and suffer the penalties prescribed by this act, and shall be personally liable to any one aggrieved thereby, for the full amount of any damage sustained by such person.

§ 6. Any one who shall violate the provisions of this act shall be punished by a fine in any sum not less than five hundred dollars, and not more than five thousand dollars, or by imprisonment in the county jail not exceeding one year, or by either or both, in the discretion of the court, and shall be liable, in civil

action, to any person aggrieved, in such damages as he or she may have sustained by the violation of this act.

§ 7. This act shall take effect and be in force from and after its passage.

ANIMALS—SHEEP.

Authorizing and empowering the boards of supervisors of the several counties of the state to prevent and eradicate infectious and contagious diseases among sheep, to provide for the appointment of a sheep commissioner, and to define the duties and powers of commissioner.

(Stats. 1889, 216, ch. CLXXXII.)

It is believed that it was the intention to supersede the above-mentioned act (or that it is superseded) by the following act.

To create the office of sheep inspector for the state of California, to provide for the appointment, and to define the powers and duties of said officer and his deputies, and their compensation, and providing for the prosecution of offenses under the same, and to suppress and prevent dissemination of scab among sheep.

(Stats. 1903, 372, ch. CCLXVII.)

§ 1. The office of sheep inspector for the state of California is hereby created and the state veterinarian of the state of California is hereby made ex-officio sheep inspector and shall perform the duties imposed by this act without additional salary or compensation from the state of California.

§ 2. The board of supervisors may, in their discretion, upon the written demand of a majority of sheep growers of their respective counties, appoint one or more deputy sheep inspectors. Such deputies shall be practical sheepmen and subject to removal whenever the board may deem it necessary.

§ 3. It shall be the duty of the state sheep inspector to have general supervision over his deputies appointed under the provisions of this act and to aid, counsel, and advise with such deputies and generally to enforce the provisions of this act.

§ 4. The deputies appointed under the provisions of this act shall have power to administer oaths, and it shall be the duty of at least one deputy inspector in each county where the same may be appointed, as herein provided by the state sheep inspector, to personally examine all sheep and bands of sheep in his county every spring between the first day of February and the first day of June and every fall between the first day of October and the first day of December for the first two years after the passage of this act, and thereafter between the first day of February and the first day of June of each year; and to the owners or persons in charge of herds found to be clean he shall issue a certificate stating such fact, which certificate shall permit such herds to pass into and through any and all counties in this state so long as they shall remain free and clean from disease. And such deputy also is required to examine any band or bands of sheep at any time he may be called upon to do so at the request of one or more sheep growers in writing, stating that such sheep are affected or infected with some infectious or contagious disease, and that there is imminent

and immediate danger of the spreading of such disease; provided, that if, upon examination, such sheep are found to be clean the person or persons making such complaint shall pay the expenses and costs of such examination, which may be recovered in a civil action therefor; but in case such inspector, upon making such examination, finds said sheep diseased, he shall forthwith issue his order quarantining said sheep; and further provided, that all bands of sheep of less than two hundred and fifty head shall not be subject to such inspections when known to be sound; but where complaint is made, then the deputy inspector must comply with and enforce the provisions of this act as in other cases hereinafter provided for.

§ 5. Any person, company, association, or corporation desiring to move his or their sheep which are not sound or are infected or affected by scab or any infectious or contagious disease shall obtain from a deputy inspector a traveling permit. Such permit shall only be granted for the purpose of moving said sheep to some place where they may be dipped for said disease, or on account of shortage of feed, and then by such route as the deputy sheep inspector may designate.

§ 6. Whenever upon examination of any bands or herds of sheep, kept or herded in any county of the state of California the deputy sheep inspector of such county shall find such sheep, or any portion of them affected or infected with the scab or scabies, or any other infectious or contagious disease, he shall forthwith notify the owner or person in charge of said sheep, in writing, to dip said sheep for said disease within a period of fifteen days from said notice; and also during said period to keep such sheep from contact with other sheep by such means as he may specify; and if, upon examination at the end of fifteen days from such notice, said deputy sheep inspector shall find that said sheep have not been dipped for said disease, or have not been kept from contact with other sheep that are sound, the owner or owners, or person or persons controlling said sheep, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars or more than two hundred and fifty dollars; and in case said sheep have not been dipped for said disease within said fifteen days, such deputy sheep inspector shall immediately take possession of said sheep and dip them for said disease, and all expenses incurred in so doing, including a compensation of four dollars for every day, or part of a day, in which said deputy sheep inspector may be engaged in dipping said sheep, shall become and is hereby made a lien upon said sheep; and such deputy sheep inspector shall hold such sheep for the period of ten days, and if the same is not paid within such time he may collect the same, together with the costs and expenses of collection, by advertising and selling said sheep, or as many thereof as may be necessary, in the manner prescribed by law for the sale of personal property on execution. If, however, upon examination at the end of fifteen days from the notice required to be given under this section such deputy sheep inspector shall find that said sheep have been dipped for said disease, but are still infected with the same, then he shall instruct the owner or controller of said sheep to dip once or more times, as circumstances demand, and as soon as possible, but with an interval between the dippings of not less than nine or more than twelve days; and if upon examina-

tion at the end of thirty days further, such deputy sheep inspector finds that said sheep have been dipped for said disease, but are still infected, then he shall at once take possession of said sheep and dip them as above specified. If, however, upon examination he finds that said sheep have not been dipped he shall seize said sheep and dip them as above specified, and the owner or owners, or controller, by reason of his failure to dip such sheep as required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars; provided, however, that no person, persons, company, or corporation shall be required to dip his or their bands of sheep between the first day of December and such time as he or they can shear such sheep in the following spring.

§ 7. No person, persons, company, or corporation shall be required to dip a band or bands of ewes or any part of them which are ewes with lambs, at any time between the fifteen[th] of December and the fifteenth of May following of any year; but they must be held in quarantine and kept separate from sound sheep, and the owner, owners, or controller shall be responsible for all damages as stated in sections seven and eight of this act, to be enforced and recovered as therein provided for. It shall also be the duty of such deputy sheep inspector to require the owner, owners, or controller of sheep, while held in quarantine during the above exemption, to spot or hand dress all sheep in their band or bands that show any scab or other contagious disease, with some reliable medicine; and such deputy sheep inspector shall have power to enforce hand dressing or spotting during the exemption referred to in this section, the same as he has power to enforce dipping at any other period of the year, as provided by this act.

§ 8. The deputy sheep inspector appointed in the several counties as provided in this act shall receive four dollars per day for every day or part of a day spent in the performance of his duty, to be paid by the owner or owners of the sheep examined, and to be enforced as a lien against the sheep so examined, as provided in section six of this act.

§ 9. In any action or proceeding, civil or criminal, arising under this act, any and all persons having an interest in the sheep or controlling the same, and concerning which such action or proceeding is had, shall be deemed the owners of said sheep, and shall be liable severally and jointly for such violation of this act. Any herder or shepherd, or other person in charge of sheep, who shall wilfully refuse to give a deputy sheep inspector after showing a star any and all information as to the condition of sheep in his charge, requested by such deputy, shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. In criminal actions against corporations under this act no arrest shall be necessary, but a summons containing notice of the time and place of trial, together with a copy of the complaint filed before a justice of the peace, or in the court in which the action is commenced, shall be served in the same manner and for the same length of time as in civil actions.

§ 10. It shall be the duty of each deputy sheep inspector appointed under this act to keep a book in which he shall record as complete a description as

practicable of the marks and brands with which each person in his county marks or brands his sheep, and the owners of sheep shall report in writing to such deputy sheep inspector their marks and brands, for the purpose of aiding such deputy sheep inspector to make up and keep such records; said deputy sheep inspectors are also required to keep a book in which they shall record the names of all persons prosecuted for violations of this act, together with a description of the particular offense charged against him, the name of the court in which said prosecution was had, and the result of such prosecution, giving the amount of fines where fines are imposed. And on the first day of January of each year, each deputy sheep inspector appointed under the provisions of this act shall make a report to the state sheep inspector, which report shall contain a true and correct copy of his record as contained in the books required by him to be kept under the provisions of this act, which report shall be placed on file in the office of the state sheep inspector.

§ 11. It shall be unlawful for any person, persons, company, corporation or association, owning, controlling, or managing any ferry-boat, toll-bridge, car, steamboat, wagon, vehicle, or other things used for transportation, to allow any sheep to be carried thereon unless the party in charge of said sheep shall first produce a certificate from a deputy sheep inspector appointed under this act, that said sheep are free from scab, scabies, and other infectious or contagious disease. Any violation of this section shall be deemed a misdemeanor and punishable by a fine of not less than one hundred dollars or more than two hundred and fifty dollars.

§ 12. If any person or persons, company, or corporation, in driving or herding any sheep, should get into their herd any stray sheep, they shall immediately notify the owner thereof; and if the owner is unknown, he or they shall forthwith notify the deputy sheep inspector of such county, giving the number of such sheep and the brands of each; and any person, persons, company, or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars.

§ 13. All deputy sheep inspectors are hereby given the power, and it is hereby made their duty to arrest and bring before a justice of the peace, or other court having jurisdiction of the same, any and all persons found violating the provisions of this act, where a complaint shall be filed by such deputy sheep inspector, either upon his own knowledge or upon sworn complaint of such violation, whereupon a hearing shall be had as in other like criminal cases; and such deputy sheep inspectors are hereby vested with the same authority to arrest and to require aid in the execution of their said office as sheriffs and their deputies of the several counties of this state; provided, that the provisions of this act requiring the deputy sheep inspectors of the county to prosecute for a violation of the provisions of this act [requiring the deputy sheep inspectors of the county to prosecute for a violation of the provisions of this act] shall not be construed so as to prevent such prosecutions from being commenced and prosecuted by other persons as criminal action[s] are commenced and prosecuted in other cases.

§ 15. This act shall take effect and be in force from and after its passage.

The "herding" of sheep has been the subject of considerable legislation in this state. The following statutes may be consulted with reference thereto: 1857, 227; 1858, 165; 1859, 119; 1860, 332; 1869-70, 304; 1871-2, 890; 1873-4, 823; 1877-8, 79. As to the counties

of Humboldt and Mendocino: 1873-4, 434, and 1875-6, 312. As to Lake County: 1877-8, 241. As to Modoc County: 1875-6, 305. As to Sacramento County: 1865-6, 436. As to Butte County: 1865-6, 436. And see **Animals—Estray.**

ANIMALS—STATE VETERINARIAN.

To protect domestic live stock from contagious and infectious diseases, to provide for the appointment and duties of officials to carry into effect the provisions of this act, and to provide an appropriation therefor.

(Stats. 1899, 129, ch. XCVI; amended, Stats. 1905, 423, ch. CCCLV.)

§ 1. The office of the state veterinarian of the state of California is hereby created. It shall be the duty of the governor, within sixty days from and after the passage of this act, to appoint a skilled veterinary surgeon for the state of California to fill said office of state veterinarian, who at the date of such appointment shall be a graduate in good standing of a recognized college of veterinary surgery, legally qualified to practice as such in this state, and shall hold his said office at the pleasure of the governor. The salary of said veterinary surgeon shall on no account exceed the sum of two thousand dollars per year, and his necessary expenses incurred in the discharge of his duties hereinafter provided for, not exceeding five hundred dollars per annum. In making said appointment it shall be the duty of the governor to disregard political affiliations, and be guided in his selection merely by the professional and moral qualifications of said veterinary for the performance of his duties.

§ 2. It shall be the duty of the state veterinarian, provided for in the first section of this act, to protect the health of all domestic animals of the state from all contagious and infectious diseases, so far as practicable: and for the purpose he is hereby authorized and empowered, by and with the approval of the governor, to establish, maintain, and enforce such quarantine, sanitary, and other regulations as he may deem necessary as to stock passing over any quarantine line existing, or which may be established within the state, and all such stock so moving shall be inspected by him, and he shall issue his certificate of state inspection, unless such stock shall have been, immediately prior to such moving, inspected by an officer or agent acting under the laws of the United States. Whenever it may be necessary to carry out and give effect to the provisions of this act, the governor is hereby authorized and empowered to appoint an assistant state veterinarian, at a salary of twelve hundred dollars per annum, and his necessary expenses incurred in the discharge of his duties not exceeding three hundred dollars per year whose tenure of office shall be determined and fixed by the governor. [Amendment, Stats. 1905, 423.]

§ 3. Upon information by him received of the existence of contagious or infectious diseases of domestic animals within this state, the state veterinarian shall proceed to thoroughly investigate the same, and he is hereby authorized, by and with the approval of the governor, to establish such quarantine, sanitary and police regulation as may be necessary to circumscribe and exterminate such disease or diseases, and prevent the extension thereof, and he is hereby

authorized and empowered to enter upon any grounds or premises and inspect any live stock necessary to carry out the provisions of this act.

§ 4. Upon the discovery of any case of such contagious or infectious disease, the state veterinarian shall immediately inform the state dairy bureau and the board of supervisors of the county or counties in which said disease exists, or diseased animals are located, of the existence of such disease and of such facts and circumstances in connection therewith as will enable said board of supervisors to take prompt and proper action to prevent the spread of such disease and to eradicate the same.

§ 5. Upon the receipt of such report, it shall be duty of said dairy bureau when more than one county is involved, and of the board of supervisors when only one county is involved, to proceed immediately to eradicate or suppress said disease, to prevent its spread or introduction among healthy animals, or the infection of pastures, roads, places, or sections theretofore free from said disease and uninfected.

§ 6. Should said board of supervisors refuse or neglect for the period of five days to take any or proper action to quarantine such cases of contagious and infectious diseases so reported to them, or to suppress or eradicate the same, or prevent the spread thereof, the state veterinarian shall have the power, and it shall be his duty, to quarantine such county, or such portions thereof as may be necessary, and thereafter it shall be unlawful for the owners of domestic animals quarantined, their agents or employees, to move any of such animals across the quarantine line established, or without the county or portion thereof quarantined, without first obtaining a permit from said state veterinarian, who shall, before such permit is issued, inspect and if necessary cause such animals and vehicles of transportation to be disinfected according to the rules laid down by the United States bureau of animal industry, department of agriculture, or until such quarantine has been raised or discontinued by said state veterinarian.

§ 7. The state veterinarian shall determine, from time to time, the quarantine and other regulations necessary to prevent the spread among domestic animals of any malignant, contagious or infectious disease found to exist among the live stock of this state, and shall to that end co-operate with, and, so far as possible, obtain the assent of the proper United States authorities to the establishment or changing of quarantine lines which are or may be hereafter established, and when he shall have done so he shall notify the governor thereof, who, if he approve, shall issue his proclamation proclaiming the boundaries of such quarantine, and the orders, rules, and such regulations prescribed for the maintenance and enforcement of such quarantine, and shall publish the same in such manner as he shall deem expedient.

§ 8. Any person failing to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction be fined not less than one hundred nor more than five hundred dollars for each offense, and shall be liable for any damage and loss that may be sustained by any person or persons by reason of the failure of such owner or agent to comply with the provisions of this act.

§ 9. For the purpose of carrying out the provisions of this act there shall be appropriated the sum of eight thousand dollars, not more than one thousand dollars payable out of the revenues for the current fiscal year, out of the general fund of this state.

§ 10. This act shall be in force and effect from and after its passage.

ANIMALS—WILD.

To encourage the destruction of wild animals in the different counties of the state, and authorizing the board of supervisors of each of said counties to fix and determine the bounty for the destruction of the same.

(Stats. 1883, 368, ch. LXXIX.)

§ 1. It shall be lawful for the board of supervisors of each county in the state, in its discretion, to fix and determine the bounty, and such bounties shall be paid out of the general county fund, to be paid for the destruction of each coyote, wildcat, fox, lynx, bear, and lion, and to prescribe rules for making proof of such destruction, and obtaining such bounty.

§ 2. This act shall take effect and be in force from and after its passage.

See subd. 28 of § 25 of County Government Act of 1883, 308; and subd. 26 of § 25 of County Government Act of 1897, 465. And see *Ex parte Hodges*, 87 Cal. 162, 25 Pac. Rep. 277; *Ingram vs. Colgan*, 106 Cal. 113, 46 Am. St. Rep. 221, 38 Pac. Rep. 315, 39 Id. 437, 28 L. R. A. 187.

Bounties for certain sculps.—See *S. F. Law & Co. Co. vs. State of Cal.*, 141 Cal. 354, 355, 74 Pac. Rep. 1047; *Bleekerdyke vs. State of Cal.*, 144 Cal. 681, 684, 78 Pac. Rep. 270. And see tit. **State of California — Actions against**, post.

ANTWERP (MESSENGER) PIGEONS.

For the protection of the Antwerp messenger or homing pigeons.

(Stats. 1897, 37, ch. XXXIX.)

This act has been carried into the Penal Code by Stats. 1905, 687, ch. DXXIV. See **KERR'S CYC. PEN. CODE** § 598a.

APIARIES.—BEE CULTURE.

To promote the apicultural interests of the state of California by providing county inspectors of apiaries, and defining their duties, and providing for their compensation, and repealing the act entitled "An act to authorize the board of supervisors of the several counties of this state to appoint inspectors of apiaries, and provide for their compensation, and defining their duties, and for the further protection of bee culture," approved March 13, 1883.

(Stats. 1901, 13, ch. XXIV; amended and new sections added, 1903, 7, ch. VI.)

§ 1. Whenever a petition is presented to the board of supervisors of any county, signed by ten or more persons, each of whom is a property-holder resident of the county, and possessor of an apiary or place where bees are kept, stating that certain or all apiaries within the county are infected with the disease known as "foul-brood," or any other disease which is infectious or contagious in its nature, and injurious to the bees, their eggs or larvæ, and praying that an inspector be appointed by them, whose duty it shall be to

supervise the treatment of said bees and apiaries as herein provided, the board of supervisors shall, within twenty (20) days thereafter, appoint a suitable person, who shall be a skilled bee-keeper, inspector of apiaries. Upon petition of ten persons, each of whom is a resident property holder and possessor of an apiary, the board of supervisors may remove said inspector for cause, after a hearing of the petition.

§ 2. It shall be the duty of the inspector in each county to cause an inspection to be made, when he deems it necessary, of any or every apiary, or other place within his jurisdiction in which bees are kept, and if found infected with foul-brood, or any other infectious or contagious disease injurious to the bees, or their eggs or larvæ, he shall notify the owner or owners, person or persons in charge, or in possession of said apiaries or places where bees are kept, that the same are infected with foul-brood, or any other disease infectious or contagious in its nature, and injurious to the bees, their eggs or larvæ, and he shall require such person or persons to eradicate and remove such disease or cause of contagion within a certain time to be specified. Said notice may be served upon the person or persons, or either of them, owning or having charge, or having possession of such infected apiaries, or places where bees are kept, by any inspector, or by any person deputized by the said inspector for that purpose, or they may be served in the same manner as a summons in a civil action. Any and all such apiaries, or places where bees are kept, found infected with foul-brood, or any other infectious or contagious disease, are hereby adjudged and declared to be a public nuisance; and whenever any such nuisance shall exist at any place within his jurisdiction, or on the property of any non-resident, or on any property the owner or owners of which cannot be found by the inspector, after diligent search, within the county, or upon the property of any owner or owners upon whom notice aforesaid has been served, and who shall refuse or neglect to abate the same within the time specified, it shall be the duty of the inspector to abate the same, either by treating the disease, or by destroying the infected hives, together with their combs and bees therein. The expense thereof shall be a county charge, and the board of supervisors shall allow and pay the same out of the general fund of the county.

§ 3. It shall be the duty of the county inspector of apiaries to keep a record of his official acts and doings, and make a monthly report thereof to the board of supervisors; and the board of supervisors may withhold warrants for salary of said inspector until such time as said report is made.

§ 4. The salary of the county inspector of apiaries shall be four dollars per day when actually engaged in the performance of his duties, and itemized necessary traveling expenses incurred in the performance of his duties as prescribed in this act. [Amend. Stats. 1903, 7.]

§ 5. An act entitled "An act to authorize the board of supervisors of the several counties of this state to appoint inspectors of apiaries, and provide for their compensation, and defining their duties, and for the further protection of bee-culture," approved March thirteenth, eighteen hundred and eighty-three, is hereby repealed.

§ 6. This act shall take effect and be in force from and after its passage.

§ 7. The inspector of apiaries may, in his discretion, order the owner, or owners, or other person in charge of bees kept in box or other immovable or stationary comb-hives in apiaries infected with foul-brood or any other infectious or contagious disease, or within a radius of three miles of such diseased apiaries, to transfer such bees to movable frame hives within a reasonable time, to be specified in such order or notice, and in default of such transfer by the owner, or owners, or other person in charge of such bees, the inspector may destroy, or cause to be destroyed, all such hives, together with their contents, and the expense thereof shall be a county charge, as provided in section two of this act. [New sec. added, Stats. 1903, 7.]

§ 8. Any person or persons who shall import bees into the state of California, which said bees are not accompanied with a certificate from a duly authorized inspector of apiaries, or bee inspector, certifying that such bees are free from foul-brood and other infectious or contagious diseases, or who shall import bees from another county within this state not having a bee inspector, into a county having a bee inspector shall immediately, upon the receipt of such bees, cause them to be inspected by a duly authorized inspector of apiaries, and if such bees are found to be infected with foul-brood or other infectious or contagious disease, such inspector shall proceed to have such disease eradicated as provided in section two of this act. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor. [New sec. added, Stats. 1903, 7.]

§ 9. It shall be unlawful for any person owning or controlling bees within this state, which are known to be infected with foul-brood or other infectious or contagious disease, to remove said bees to a new location, without first giving ten days' notice to the county inspector of apiaries, stating when and where he intends moving said bees. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor. [New sec. added, Stats. 1903, 7.]

§ 10. Any person or persons whose apiary is infected with foul-brood or any other infectious or contagious disease, and who sells, or offers for sale, from such infected apiary any bees, hives, bee fixtures or appurtenances, or who shall expose in his bee yard, or elsewhere, any infected comb-honey, beeswax, or other infected thing, or who conceals the fact that his apiary is so infected, shall be deemed guilty of a misdemeanor. [New sec. added, Stats. 1903, 7.]

§ 11. Any person or persons who shall resist, impede, or hinder in any way, the inspector of apiaries in the discharge of his duties under the provisions of this act, shall be deemed guilty of a misdemeanor. [New sec. added, Stats. 1903, 7.]

As to bees, keeping and liability, see 97 Am. St. Rep. 290.

APPEALS.

Relating to appeals from judgments or orders of courts given or made prior to January 1, 1880.

(Stats. 1880, 24, ch. XXXIV.)

The statute has evidently served its purpose.

APPRENTICES AND MASTERS.

Relative to apprentices and masters.

(Stats. 1875-6, 842, ch. DLIII; amended Stats. 1880, 177, ch. LXXXVI.)

This statute has been carried into the Civil Code by Stats. 1905, 560 et seq., ch. CDXVII.
See **KERR'S CYC. CIVIL CODE**, §§ 264-276.

APPROPRIATED WATERS.

See Stats. 1885, 95, under subject **Irrigation**.

APPROPRIATION BILL—SUPPORT OF STATE.

Making appropriations for the support of the government of the state of California for the fifty-seventh and fifty-eighth fiscal years.

(Stats. 1905, 729, ch. DLXIII.)

§ 1. The following sums of money are hereby appropriated out of any money in the state treasury not otherwise appropriated, for the support of the government of the state of California for the fifty-seventh and fifty-eighth fiscal years:

FOR LEGISLATIVE DEPARTMENT.

For per diem and mileage of lieutenant-governor and senators, twenty-one thousand five hundred dollars.

For per diem and mileage of assemblymen, forty-two thousand dollars.

For pay of officers and clerks of the senate, twenty-one thousand dollars.

For pay of officers and clerks of the assembly, twenty-eight thousand dollars.

For contingent expenses of the senate, forty-five thousand dollars.

For contingent expenses of the assembly, fifty-two thousand dollars.

FOR JUDICIAL DEPARTMENT.

For salaries of justices of supreme court, eighty-four thousand dollars.

For salaries of judges of district courts of appeal, one hundred and eight thousand dollars.

For state's portion of salaries of judges of superior courts, three hundred and fifty thousand dollars.

For salary of clerk of supreme court, six thousand dollars.

For salary of chief deputy clerk of supreme court, four thousand eight hundred dollars.

For salaries of five deputy clerks of supreme court, eighteen thousand dollars.

For salary of stenographer to clerk of supreme court, two thousand dollars.

For salary of reporter of decisions of supreme court and district courts of appeal, five thousand dollars.

For salary of assistant reporter of decisions of supreme court and district courts of appeal, four thousand eight hundred dollars.

For salaries of three clerks of district courts of appeal, fourteen thousand four hundred dollars.

For salaries of two secretaries of supreme court, nine thousand six hundred dollars.

For salary of librarian, supreme court library, three thousand dollars.

For salaries of two bailiffs and performing the work of porters of supreme court, six thousand dollars.

For salaries of three bailiffs and performing the work of porters of district courts of appeal, seven thousand two hundred dollars.

For pay of porter for office of clerk of supreme court at Sacramento, one thousand four hundred and forty dollars.

For postage and contingent expenses of clerk of supreme court, one thousand six hundred dollars.

For postage and contingent expenses of clerks of district courts of appeal (one third to each), three thousand dollars.

For postage and contingent expenses of supreme court, two hundred and fifty dollars.

For postage and contingent expenses of district courts of appeal (one third to each), seven hundred and fifty dollars.

For expenses of supreme court, under section forty-seven, Code of Civil Procedure, thirty-five thousand eight hundred dollars.

For salary of two phonographic reporters of supreme court, ten thousand eight hundred dollars.

For salaries of three phonographic reporters of district courts of appeal, ten thousand eight hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to clerk of supreme court, two thousand five hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to clerks of district courts of appeal (one third to each), three thousand dollars.

FOR EXECUTIVE DEPARTMENT.

For salary of governor, twelve thousand dollars.

For salary of private secretary to governor, eight thousand dollars.

For salary of executive secretary to governor, five thousand two hundred dollars.

For salary of stenographer to governor, three thousand two hundred dollars.

For pay of messenger to governor, two thousand four hundred dollars.

For special contingent expenses (secret service) governor's office (exempt from provisions of sections four hundred and thirty-three and six hundred and seventy-two of Political Code), ten thousand dollars.

For postage, expressage, telegraphing, traveling, and contingent expenses, governor's office, five thousand five hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the executive department, one thousand two hundred and fifty dollars.

For payment of rewards offered by the governor, one thousand five hundred dollars.

For payment of rewards offered by the governor, illegal voting, five hundred dollars.

For payment of rewards for arrest and conviction of highway robbers, two thousand dollars.

For arresting criminals without the state, ten thousand dollars.

FOR STATE BOARD OF EXAMINERS.

For salary of secretary to board of examiners, six thousand dollars.

For salary of assistant secretary to board of examiners, four thousand eight hundred dollars.

For salaries of clerks to state board of examiners, twelve thousand eight hundred dollars.

For pay of porter, board of examiners, nine hundred and sixty dollars.

For postage, expressage, telegraphing, and contingent expenses, state board of examiners, nine hundred dollars.

For traveling expenses of state board of examiners, one thousand seven hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the state board of examiners, five hundred dollars.

FOR SECRETARY OF STATE'S OFFICE.

For salary of secretary of state, six thousand dollars.

For salary of deputy secretary of state, four thousand eight hundred dollars.

For salary of bookkeeper, secretary of state's office, four thousand dollars.

For salary of statistician, secretary of state's office, four thousand dollars.

For salary of keeper of archives, secretary of state's office, four thousand dollars.

For salaries of clerks, secretary of state's office, sixteen thousand dollars.

For salary of janitor, state capitol, four thousand dollars.

For salary of clerk to janitor, secretary of state's office, three thousand two hundred dollars.

For pay of porter, secretary of state's office, one thousand four hundred and forty dollars.

For postage, expressage, and telegraphing, secretary of state's office (except from section four of this act), four thousand dollars.

For contingent and traveling expenses, secretary of state's office, five hundred dollars.

For salaries of two special clerks, secretary of state's office (under section four hundred and twenty-two, Political Code, to be expended during the fifty-eighth fiscal year), seven hundred and fifty dollars.

For purchase of ballot paper, six thousand dollars.

For indexing laws and resolutions, five hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the secretary of state, ten thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the secretary of state, to be used for the purpose of printing and distributing constitutional amendments, one thousand six hundred dollars.

FOR STATE CAPITOL BUILDING AND GROUNDS.

For pay of employees of state capitol building and grounds, fifty-four thousand one hundred and twenty dollars.

For salaries of policemen, capitol grounds, seven thousand two hundred dollars.

For salary of elevator attendant, engineer, and fireman, serving during session of legislature, to be used during the fifty-eighth fiscal year, eight hundred and seventy dollars.

For repairs to capitol building and furniture (exempt from section four of this act), five thousand dollars.

For purchase of carpets and furniture (exempt from section four of this act), eleven thousand seven hundred and seventy-five dollars.

For stationery, fuel, light, supplies, et cetera, legislature and state officers, twenty-seven thousand nine hundred dollars.

For water for state capitol building, one thousand two hundred dollars.

For water for state capitol grounds, two thousand four hundred dollars.

For lighting the capitol grounds, one thousand seven hundred and twenty-eight dollars.

For purchase of implements and hose, care and improvement of grounds (exempt from section four of this act), twelve thousand dollars.

FOR CONTROLLER'S OFFICE.

For salary of controller, six thousand dollars.

For salary of deputy controller, four thousand eight hundred dollars.

For salary of bookkeeper, state controller's office, four thousand dollars.

For salary of expert, state controller's office, four thousand dollars.

For salaries of clerks, state controller's office, sixteen thousand dollars.

For pay of porter, state controller's office, one thousand four hundred and forty dollars.

For postage, expressage, and telegraphing, state controller's office, one thousand six hundred dollars.

For contingent and traveling expenses, state controller, two thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state controller, four thousand dollars.

FOR TREASURER'S OFFICE.

For salary of state treasurer, six thousand dollars.

For salary of deputy state treasurer, four thousand eight hundred dollars.

For salary of bookkeeper, state treasurer's office, four thousand dollars.

For salary of clerk, state treasurer's office, three thousand two hundred dollars.

For salaries of watchmen, state treasurer's office, nine thousand six hundred dollars.

For pay of porter, state treasurer's office, one thousand four hundred and forty dollars.

For postage, expressage, telegraphing, contingent, and traveling expenses, state treasurer, eight hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state treasurer, one thousand dollars.

FOR ATTORNEY-GENERAL'S OFFICE.

For salary of attorney-general, six thousand dollars.

For salary of assistant attorney-general, five thousand four hundred dollars.

For salaries of deputies attorney-general, fourteen thousand four hundred dollars.

For salaries of clerks, attorney-general's office, nine thousand six hundred dollars.

For salary of phonographic reporter, attorney-general's office, three thousand six hundred dollars.

For pay of porter, attorney-general's office at Sacramento, nine hundred and sixty dollars.

For postage, expressage, telegraphing, and contingent expenses, attorney-general's office, three thousand four hundred dollars.

For traveling expenses, attorney-general, one thousand dollars.

For costs and expenses of suits wherein the state is a party in interest, four thousand dollars.

For office rent of attorney-general in San Francisco, three thousand six hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the attorney-general, six thousand dollars.

For purchase of law-books, one thousand dollars.

FOR SURVEYOR-GENERAL'S OFFICE.

For salary of surveyor-general, six thousand dollars.

For salary of deputy surveyor-general, four thousand eight hundred dollars.

For salary of assistant surveyor-general, four thousand dollars.

For salaries of clerks, surveyor-general's office and register state land office, twelve thousand eight hundred dollars.

For pay of porter, surveyor-general's office, nine hundred and sixty dollars.

For postage, expressage, and telegraphing, surveyor-general's office, one thousand two hundred dollars.

For contingent and traveling expenses, surveyor-general's office, seven hundred and fifty dollars.

For purchase of and copying maps, surveyor-general's office, three thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the surveyor-general, one thousand two hundred dollars.

For traveling expenses of surveyor-general and attorney-general when engaged in contests between the state and the United States and other state business in relation to land, five hundred dollars.

FOR OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

For salary of superintendent of public instruction, six thousand dollars.

For salary of deputy superintendent of public instruction, four thousand eight hundred dollars.

For salary of statistician, superintendent of public instruction, three thousand two hundred dollars.

For salary of clerk and stenographer, superintendent of public instruction's office, two thousand four hundred dollars.

For clerical assistance in superintendent of public instruction's office, in distributing state school books, four thousand dollars.

For pay of porter, superintendent of public instruction's office, one thousand four hundred and forty dollars.

For postage, expressage, and telegraphing, superintendent of public instruction's office, two thousand four hundred dollars.

For contingent and traveling expenses (including traveling expenses under section fifteen hundred and thirty-two, Political Code), three thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the superintendent of public instruction, twelve thousand dollars.

FOR MILITARY PURPOSES.

For salary of adjutant-general, six thousand dollars.

For salary of assistant adjutant-general, four thousand eight hundred dollars.

For salary of clerks, eight thousand eight hundred dollars.

For salary of military storekeeper and state armorer, two thousand four hundred dollars.

For postage, expressage, and telegraphing, adjutant-general's office, one thousand six hundred dollars.

For care of state armory, cleaning and transportation of arms, traveling and contingent expenses of the adjutant-general, five thousand dollars.

For target practice and purchase of medals, national guard, ten thousand dollars.

For allowance for brigade headquarters, national guard, four thousand six hundred dollars.

For allowance for regimental headquarters, including allowance for bands, national guard, fourteen thousand two hundred and thirty-two dollars.

For armory rents and other expenses of the national guard, one hundred and eighty thousand dollars.

For armory rents, unattached companies, national guard, fifteen hundred dollars.

For traveling expenses and per diem of officers on detail duty, national guard, six thousand dollars.

For hospital supplies, national guard, one thousand dollars.

For furnishing coal and other supplies, and for repairs to training ships, naval militia, three thousand dollars.

For purchase of uniforms, and equipments, national guard, five thousand dollars.

For encampments, national guard (exempt from § 4 of this act), fifteen thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the adjutant-general, four thousand dollars.

FOR STATE LIBRARY.

For salary of state librarian, six thousand dollars.

For salary of two deputy state librarians, seven thousand two hundred dollars.

FOR STATE PRINTING OFFICE.

For salary of superintendent of state printing, six thousand dollars.

For salary of deputy superintendent of state printing, four thousand eight hundred dollars.

For salary of copy editor for state printer, three thousand six hundred dollars.

For postage, traveling, telegraphing, and contingent expenses, one thousand dollars.

For lithographing, engraving, and half-tone plates and zincotypes, and work of like character, state printing office, five thousand dollars.

For insurance of state printing office and contents, one thousand eight hundred dollars.

For legislative printing, thirty-seventh session, five thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state printer, seven hundred dollars.

FOR STATE BOARD OF HEALTH.

For salary of secretary to state board of health, six thousand dollars.

For salary of attorney to state and San Francisco boards of health, six thousand dollars.

For traveling and contingent expenses of state board of health, five thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state board of health, two thousand dollars.

For salary of statistician for state board of health, three thousand six hundred dollars.

FOR OFFICE OF INSURANCE COMMISSIONER.

For salary of insurance commissioner, six thousand dollars.

For salary of deputy insurance commissioner, three thousand six hundred dollars.

For traveling and contingent expenses of the insurance commissioner, one thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the office of insurance commissioner, two thousand five hundred dollars.

FOR BOARD OF RAILROAD COMMISSIONERS.

For salaries of railroad commissioners, twenty-four thousand dollars.

For salary of secretary to board of railroad commissioners, four thousand eight hundred dollars.

For salary of bailiff to board of railroad commissioners, two thousand four hundred dollars.

For salary of stenographer to board of railroad commissioners, one thousand eight hundred dollars.

For office rent, board of railroad commissioners, one thousand two hundred dollars.

For fuel, lights, postage, expressage, and incidental expenses, board of railroad commissioners, one thousand two hundred and fifty dollars.

For traveling expenses, board of railroad commissioners, seven hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for board of railroad commissioners, two thousand dollars.

FOR STATE BOARD OF EQUALIZATION.

For salaries of members of the state board of equalization, twenty-four thousand dollars.

For salary of clerk state board of equalization, four thousand eight hundred dollars.

For pay of porter, state board of equalization, nine hundred and sixty dollars.

For postage, expressage, telegraphing, and contingent expenses, state board of equalization, eight hundred and fifty dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state board of equalization, one thousand two hundred and fifty dollars.

FOR COMMISSIONER FOR REVISION AND REFORM OF THE LAW.

For salary of commissioner for revision and reform of the law, seven thousand two hundred dollars.

For salary of stenographer to commissioner for revision and reform of the law, two thousand four hundred dollars.

For postage, expressage, and telegraphing, office of commissioner for revision and reform of the law, two hundred and fifty dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the commissioner for revision and reform of the law, one thousand dollars.

FOR CALIFORNIA REDWOOD PARK.

For improvement and maintenance California Redwood Park, twenty thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for California Redwood Park, three hundred dollars.

FOR DEPARTMENT OF HIGHWAYS.

For salary of the commissioner of the department of highways, six thousand dollars.

For salary of secretary, department of highways, three thousand dollars.

For salary of stenographer, department of highways, two thousand four hundred dollars.

For pay of porter of department of highways, nine hundred and sixty dollars.

For traveling and contingent expenses, department of highways, one thousand dollars.

For improvement and maintenance of Sonora and Mono road, eight thousand dollars.

For improvement and maintenance of Mono Lake Basin road, one thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the department of highways, seven hundred and fifty dollars.

FOR LAKE TAHOE WAGON ROAD COMMISSIONER.

For salary of commissioner for Lake Tahoe wagon road, one thousand two hundred dollars.

For maintenance of Lake Tahoe wagon road, eight thousand dollars.

FOR STATE MINING BUREAU.

For salary of state mineralogist for the state mining bureau, six thousand dollars.

For support of the state mining bureau, including salaries, thirty-five thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the state mining bureau, five thousand dollars.

FOR COMMISSIONER OF PUBLIC WORKS.

For salary of commissioner of public works, six thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the commissioner public works, five hundred dollars.

FOR DEBRIS COMMISSIONER.

For salary of debris commissioner, one thousand two hundred dollars.

For salary of secretary to debris commissioner, six hundred dollars.

For traveling and incidental expenses of debris commissioner, six hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the debris commissioner, fifty dollars.

FOR STATE HOSPITALS.

For support of Stockton state hospital, two hundred and forty thousand one hundred dollars.

For salaries of officers and employees of Stockton state hospital, two hundred and thirteen thousand dollars.

For support of Napa state hospital, two hundred and thirty-seven thousand nine hundred dollars.

For salaries of officers and employees of Napa state hospital, two hundred and eleven thousand dollars.

For support of Agnews state hospital, one hundred and eighty-two thousand dollars.

For salaries of officers and employees of Agnews state hospital, one hundred and fifty-nine thousand dollars.

For salary of female physician at Agnews state hospital, three thousand dollars.

For support of Mendocino state hospital, one hundred and twenty-eight thousand dollars.

For salaries of officers and employees of Mendocino state hospital, one hundred and six thousand five hundred dollars.

For salary of female physician at Mendocino state hospital, one thousand six hundred dollars.

For support of Southern California state hospital, one hundred and eighty thousand dollars.

For salaries of officers and employees of Southern California state hospital, one hundred and twenty-three thousand dollars.

For salary of female physician at Southern California state hospital, one thousand six hundred dollars.

For support of Home for Feeble-Minded Children, one hundred and thirty-one thousand eight hundred dollars.

For salaries of officers and employees of Home for Feeble-Minded Children, one hundred thousand seven hundred and fifty-five dollars.

For salary of female physician at the Home for Feeble-Minded Children, one thousand six hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the state lunacy commission, five thousand five hundred dollars.

For support of Institution for Deaf, Dumb, and Blind at Berkeley, forty thousand nine hundred and sixty dollars.

For salaries of officers and employees of same, ninety-one thousand two hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for Institution for Deaf, Dumb, and Blind, six hundred dollars.

For support of Home for Adult Blind, twenty-eight thousand dollars.

For salaries of officers and employees of same, twenty-two thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the Home for Adult Blind, six hundred dollars.

FOR STATE PRISONS AND REFORM SCHOOLS.

For support of state prison at San Quentin, three hundred and ninety-six thousand three hundred and fifty-two dollars.

For salaries of officers and employees of same, two hundred and seven thousand nine hundred and twenty dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state prison at San Quentin, two thousand five hundred dollars.

For support of state prison at Folsom, one hundred and fifty thousand dollars.

For salaries of officers and employees of same, one hundred and forty-five thousand dollars.

For printing, binding, ruling, and all other work performed and materials

furnished by the state printing office for the state prison at Folsom, two thousand five hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the state board of prison directors, five hundred dollars.

FOR HOSPITAL FOR CONVICT INSANE.

For support of Hospital for Convict Insane, six thousand dollars.

For salaries of officers and employees of same, six thousand dollars.

FOR REFORM SCHOOLS.

For support of Preston School of Industry, sixty thousand dollars.

For salaries of officers and employees of same, fifty-five thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for Preston School of Industry, three hundred and fifty dollars.

For support of Whittier State School, one hundred and fifteen thousand dollars.

For salaries of officers and employees of same, one hundred thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the Whittier State School, three hundred and fifty dollars.

For transportation of prisoners to the state prisons, and children committed to the Whittier State School and Preston School of Industry and insane and feeble-minded children, one hundred and thirty-five thousand dollars.

STATE UNIVERSITY.

For support and maintenance, University of California (Act March fifteen, nineteen hundred and one), two hundred thousand dollars.

For maintenance of California Poultry Experiment Station, four thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the State University, twelve thousand dollars.

FOR STATE NORMAL SCHOOLS.

For support of state normal school at San Jose, eight thousand dollars.

For salaries of officers, teachers, and employees of same, ninety-eight thousand dollars.

For care and improvement of grounds, four thousand dollars.

For library, museum, and purchase of scientific apparatus, three thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state normal school at San Jose, one thousand dollars.

For support of state normal school at Los Angeles, ten thousand dollars.

For salaries of officers, teachers, and employees of same, ninety-five thousand dollars.

For care and improvement of grounds, two thousand dollars.

For library, museum, and purchase of scientific apparatus, three thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state normal school at Los Angeles, one thousand dollars.

For support of state normal school at Chico, five thousand five hundred dollars.

For salaries of officers, teachers, and employees of same, sixty thousand dollars.

For care and improvement of grounds, two thousand dollars.

For library, museum, and purchase of scientific apparatus, one thousand eight hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state normal school at Chico, nine hundred dollars.

For support of state normal school at San Diego, five thousand dollars.

For salaries of officers, teachers, and employees of same, fifty-eight thousand dollars.

For library, museum, and scientific apparatus for same, two thousand dollars.

For care and improvement of grounds of same, two thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state normal school at San Diego, nine hundred dollars.

For support of state normal school at San Francisco, six thousand dollars.

For salaries of officers, teachers, and employees of same, forty-eight thousand dollars.

For library, museum, and scientific apparatus for same, three thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for state normal school at San Francisco, nine hundred dollars.

FOR CALIFORNIA POLYTECHNIC SCHOOL.

For support and maintenance, including purchase of stock and equipment for farm and laboratories, twenty-two thousand three hundred dollars.

For salaries of officers, teachers, and employees, forty-one thousand dollars.

For care and improvement of grounds, five thousand dollars.

For library, one thousand dollars.

For expenses of trustees, eight hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the California Polytechnic School, eight hundred dollars.

FOR BUREAU OF LABOR STATISTICS.

For salary of the commissioner, bureau of labor statistics, six thousand dollars.

For salary of deputy commissioner, bureau of labor statistics, three thousand six hundred dollars.

For office rent, bureau of labor statistics, one thousand two hundred dollars.

For salary of assistants, traveling and contingent expenses, bureau of labor statistics (Stats. 1889, page 7), seven thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office for the bureau of labor statistics, two thousand five hundred dollars.

FOR STATE COMMISSIONER OF HORTICULTURE.

For salary of commissioner, six thousand dollars.

For salary of deputy commissioner, four thousand eight hundred dollars.

For salary of clerk, three thousand dollars.

For support and expense of state board of horticulture, fifteen thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state commissioner of horticulture, five thousand dollars.

FOR FISH COMMISSION.

For restoration and preservation of game, twenty-five thousand dollars.

For restoration and preservation of fish, twenty thousand dollars.

For support and maintenance of state hatcheries, twenty-five thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the fish commission, one thousand four hundred dollars.

FOR STATE BOARD OF EDUCATION.

For traveling expenses of state board of education, one thousand five hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state board of education, one hundred dollars.

FOR VETERANS' HOME.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the Veterans' Home, two hundred and fifty dollars.

FOR STATE AGRICULTURAL SOCIETY.

For aid to state agricultural society; provided, that the state agricultural society create and maintain a statistical department for the annual collection, compilation and distribution of statistics relating to the products and resources of the state, thirty thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state agricultural society, six thousand dollars.

FOR STATE VETERINARIAN.

For salary of state veterinarian, four thousand dollars.

For traveling and contingent expenses of same, two thousand dollars.

For salary and per diem and traveling expenses of assistants, four thousand dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to the state veterinarian, two hundred dollars.

MISCELLANEOUS.

For official advertising, two thousand dollars.

For maintenance of governor's residence, five thousand dollars.

For traveling expenses, joint board normal school directors, one thousand five hundred dollars.

For actual expenses of state commission on voting or ballot machines (exempt from section four of this act), five hundred dollars.

For salary of guardian, Marshall monument and grounds, one thousand two hundred dollars.

For salary of guardian of Sutter's Fort, one thousand four hundred and forty dollars.

For payment of interest on one hundred thousand dollars to Hastings College of the Law, fourteen thousand dollars.

For pure-wine labels, three hundred dollars.

For care of state burial grounds, two hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to harbor commissioners, San Diego, one hundred dollars.

For printing, binding, ruling, and all other work performed and materials furnished by the state printing office to various officers, boards and commissions, to be expended under the direction of the state board of examiners, five thousand five hundred dollars.

OTHER ESTIMATES.

For orphans, half orphans, and abandoned children as provided in an act to appropriate money for support of orphans, half orphans, and abandoned children, approved March twenty-five, eighteen hundred and eighty, and the amendments thereof, nine hundred and fifty thousand dollars.

§ 2. The sums that are herein appropriated for expenses of the senate and assembly shall be disbursed under the direction of the bodies to which they respectively belong, and shall not be subject to any of the provisions of section six hundred and seventy-two of the Political Code. The sums herein appropriated for the expenses of the national guard shall be audited by the board of military auditors, as required by sections two thousand and ninety-three and two thousand and ninety-nine of the Political Code. Not more than five hundred dollars of the moneys hereby appropriated for the support of the institutions of the state shall be used for permanent improvements, but shall be used solely for the payment of salaries and traveling expenses of the commissioners or directors having charge of the same (when such salaries or expenses are allowed by law), the salaries of employees, the purchase of material and supplies for the use of said institutions, and for such incidental and current expenses as may be necessarily incurred for the proper management and support of said institutions.

§ 3. All persons having demands against the state, the various state officers, and the officers of all institutions under the control of the state, except the governor, to whom and for which appropriations other than salaries are made under the provisions of this act, shall, with their biennial report, submit a detailed statement, under oath, of the manner in which all appropriations for

their respective departments and institutions have been expended, and the state board of examiners is hereby expressly prohibited from allowing any demand payable out of any such appropriations until the same are presented in itemized form, accompanied by affidavit and voucher for money expended by them, stating specifically the service rendered, by whom performed, time employed, distance traveled, and necessary expenses thereof; if for articles purchased, the name of each article, together with the price paid for each, and of whom purchased, with the date of the purchase. All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services; provided, that no officer shall use or appropriate any money for any purpose whatsoever appropriated by this act, unless authorized thereto by law.

§ 4. Not more than one twenty-fourth part of the amount appropriated under this act for each department or institution for the two years ending June thirtieth, nineteen hundred and seven, shall be expended during any one month without the consent of the state board of examiners, and not more than one half of such appropriation during the fifty-seventh fiscal year, unless the same has been expressly authorized by this act.

§ 5. The officers of the various departments, boards, commissions, and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditure in excess of such appropriations, except the unanimous consent of the state board of examiners be first obtained, and a certificate, in writing, duly signed by every member of said board, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the state in violation of the provisions of this section shall be absolutely null and void, and shall not be allowed by said state board of examiners, nor paid out of any state appropriations; provided, that any member of any such department, board, commissions, or institutions, who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act, except by the unanimous consent of the state board of examiners, and the certificate in this section provided to be first obtained, shall be liable on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation, to whom such indebtedness is owing.

§ 6. No money appropriated by this act shall be used to renew, or pay for the renewal of, any insurance on any public building or property, nor to effect or pay for any new insurance on any public building or property, except the state printing office and its contents and the pavilion of the state agricultural society.

§ 7. The various sums herein appropriated for printing, ruling, binding, materials and all other work provided by law to be done in the state printing office shall be expended only upon requisitions to be approved by the state board of examiners, and said board is authorized and given power to reduce the amount of such requisitions either in whole or in any item thereof.

March 22, 1905.

This bill, being Assembly Bill No. 1157, entitled "An act making appropriations for the support of the government of the state of California for the fifty-seventh and fifty-eighth

fiscal years," is approved, with the exception of the following items, that is to say: two items on page 13, reading as follows:

"For Hospital for Convict Insane.

"For support of Hospital for Convict Insane, six thousand dollars.

"For salaries of officers and employees of same, six thousand dollars."

I object to the foregoing items of the same and withhold my approval from them for the following reason, that is to say:

The Hospital for Convict Insane, for the construction of which an appropriation has been made, will probably not be completed until about the end of the biennial period included in the fifty-seventh and fifty-eighth fiscal years; and, therefore, it is not necessary to make appropriations at this time for the support of such hospital or for salaries of officers and employees. Therefore I disapprove of the two items of appropriation above cited, while approving all of the remainder of the bill.

GEO. C. PARDEE, Governor.

ARBITRATION—STATE BOARD OF.

To provide for a state board of arbitration for the settlement of differences between employers and employees, to define the duties of said board, and to appropriate the sum of twenty-five hundred dollars therefor.

(Stats. 1891, 49, ch. LI.)

§ 1. On or before the first day of May of each year, the governor of the state shall appoint three competent persons to serve as a state board of arbitration and conciliation. One shall represent the employers of labor, one shall represent labor employees, and the third member shall represent neither, and shall be chairman of the board. They shall hold office for one year and until their successors are appointed and qualified. If a vacancy occurs, as soon as possible thereafter the governor shall appoint some one to serve the unexpired term; provided, however, that when the parties to any controversy or difference, as provided in section two of this act, do not desire to submit their controversy to the state board, they may by agreement each choose one person, and the two shall choose a third, who shall be chairman and umpire, and the three shall constitute a board of arbitration and conciliation for the special controversy submitted to it, and shall for that purpose have the same powers as the state board. The members of the said board or boards, before entering upon the duties of their office, shall be sworn to faithfully discharge the duties thereof. They shall adopt such rules of procedure as they may deem best to carry out the provisions of this act.

§ 2. Whenever any controversy or difference exists between an employer, whether an individual, copartnership, or corporation, which, if not arbitrated, would involve a strike or lockout, and his employees, the board shall, upon application, as hereinafter provided, and as soon as practicable thereafter, visit, if necessary, the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either, or both, to adjust said dispute and make a written decision thereof. This decision shall at once be made public, and shall be recorded upon proper books of record to be kept by the board.

§ 3. Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent, or by both parties, and shall

contain a concise statement of the grievances complained of, and a promise to continue on in business or at work, without any lockout or strike, until the decision of said board, which must, if possible, be made within three weeks of the date of filing the application. Immediately upon receipt of said application, the chairman of said board shall cause public notice to be given of the time and place for hearing. Should the petitioners fail to keep the promise made therein, the board shall proceed no further thereupon without the written consent of the adverse party. And the party violating the contract shall pay the extra cost of the board entailed thereby. The board may then reopen the case and proceed to the final arbitration thereof as provided in section two hereof.

§ 4. The decision rendered by the board shall be binding upon the parties who join in the application for six months, or until either party has given the other a written notice of his intention not to be further bound by the conditions thereof after the expiration of sixty days or any time agreed upon by the parties, which agreement shall be entered as a part of the decision. Said notice may be given to the employees by posting a notice thereof in three conspicuous places in the shop or factory where they work.

§ 5. Both employers and employees shall have the right at any time to submit to the board complaints or grievances and ask for an investigation thereof. The board shall decide whether the complaint is entitled to a public investigation, and if they decide in the affirmative, they shall proceed to hear testimony, after giving notice to all parties concerned, and publish the result of their investigations as soon as possible thereafter.

§ 6. The arbitrators hereby created shall be paid five dollars per day for each day of actual service, and also their necessary traveling and other expenses incident to the duties of their office shall be paid out of the state treasury; but the expenses and salaries hereby authorized shall not exceed the sum of twenty-five hundred dollars for the two years.

§ 7. The sum of twenty-five hundred dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the expenses of the board for the first two years after its organization.

§ 8. This act shall take effect and be in force from and after its passage.

ARCHITECTS.

See **Architecture; Public Works.**

ARCHITECTURE.

To regulate the practice of architecture.

(Stats. 1901, 641, ch. CCXII; amended by adding § 7, Stats. 1903, 522, ch. CCCLXXVI.)

§ 1. Within sixty days from and after the passage of this act, the governor of the state shall appoint ten persons, which persons so appointed shall constitute a board, which board shall be known and designated as the state board of architecture. Five members of said board of architecture, shall be residents of the northern district of California, and shall constitute the northern district

[board] for the examination of applicants for certificates to practise architecture in this state. And five members of said board shall be appointed from the southern district of California, and shall constitute the southern district board for the examination of applicants for certificates to practise architecture in this state. The northern district shall be all that portion of the state north of the northerly line of the county of San Luis Obispo and the county of Kern and the county of San Bernardino. And the southern district shall be all that portion of the state south of the northerly line of the county of San Luis Obispo and of the county of Kern and of the county of San Bernardino. Said state board of architecture shall be appointed by the governor as follows: Five members shall be appointed from the members in good standing of the San Francisco Chapter of the American Institute of Architects, or some similar institution or association of architects, two of whom shall be designated to hold office for two years. Five members shall be appointed from the members of the Southern California Chapter of the American Institute of Architects, or some similar institution or association of architects, two of whom shall be designated to hold office for two years. Each person so appointed shall hold office for four years, unless so designated to hold office for two years. And thereafter, upon the expiration of the term of office of the persons so appointed, the governor of the state shall appoint a successor or successors to such outgoing person or persons whose term of office shall have expired, to hold office for four years; provided, that the membership of the state board of architecture shall be composed as herein set forth. Each member shall hold over after the expiration of his term of office until his successor shall have been duly appointed and qualified. Any vacancy occurring in the membership of the board shall be filled by the governor of the state for the unexpired term in like manner. The members of the board shall serve without compensation from the state. The expenses of the board shall be paid out of the fees collected from applicants for certificates.

§ 2. The members of the state board of architecture shall, before entering upon the discharge of the duties of their office, take and file with the secretary of state the constitutional oath of office. The said state board of architecture shall, within thirty days from and after their appointment, meet and elect from their number a president and a vice-president, one of whom shall be a resident of the northern district, and one a resident of the southern district, and two secretaries, one from each district. The secretaries shall also act as treasurers. The person receiving the highest number of votes shall be secretary, and the person receiving the next highest number of votes, assistant secretary. Said persons shall hold office for two years, or until their successors shall have been duly elected and qualified.

§ 3. The board may adopt rules and regulations for the government of its proceedings, not inconsistent with this act. The state board shall adopt a seal for its own use, and one for each of the district boards. The seal used by the northern district board shall have the words "Northern District" inscribed thereon, and the one for the southern district shall have the words "Southern District" inscribed thereon, and the secretary and assistant secretary shall have charge, care and custody thereof. The secretary shall keep a correct record of all the proceedings of the board, which shall be open to

public examination at all times. Six members shall constitute a quorum for the transaction of business of the state board of architecture, and three members shall constitute a quorum of the district boards for the transaction of business. Special meetings of the state board of architecture shall be called by the secretary upon the written request of four of its members, and by giving twenty days' written notice of such meeting, and the time and place at which such meeting is to be held, to each member of the board. The district boards shall call special meetings upon the written request of two of its members made to the secretary, and upon five days' written notice to each member of such district board. Within thirty days from and after the date of their appointment, the state board shall meet to organize, elect officers as in this act provided for, and formulate and adopt a code of rules and regulations for its government in the examination of applicants for certificates to practise architecture in this state; and such other rules and regulations as may be necessary and proper, not inconsistent with this act. The board may from time to time repeal or modify its rules and regulations, not inconsistent with this act. The state board shall meet annually, on the second Tuesday in April, for the purpose of transacting such business as may lawfully come before it, not inconsistent with this act. The district boards shall hold their regular meetings for the examination of applicants for certificates to practise architecture, on the last Tuesday of January, April, July and October of each year. The board of the northern district shall meet in San Francisco; and the board of the southern district shall meet in Los Angeles, and at such other times and places as they may elect, to examine applicants for certificates. Any person shall be entitled to an examination for a certificate to practise architecture, upon payment, to the district board when he makes application, of a fee of fifteen dollars, which fee shall be retained by the board; should the applicant pass a satisfactory examination by said district board, the secretary shall, upon the payment to him of a further fee of five dollars, issue to the applicant a certificate, signed by the president and secretary, sealed with the seal of the district board, and directed to the secretary of state, setting forth the fact that the person therein named has passed a satisfactory examination, and that such person is entitled to a certificate to practise architecture in this state, in accordance with the provisions of this act; and upon the payment to the secretary of state a fee of five dollars, the secretary shall at once issue to the person therein named, a certificate to practise architecture in this state in accordance with the provisions of this act, which certificate shall contain the full name of the applicant, his birthplace, and age, together with the name of the district board issuing the certificate, and date of issuance thereof. All papers received by the secretary of state on application for certificate shall be kept on file in his office, and a proper index and record thereof shall be kept by him.

§ 4. Any architect in good standing, who shall show to the satisfaction of the district board of the district in which such architect may reside, that he was engaged in the practice of the profession of architecture on the date of the passage of this act, shall be granted a certificate without passing an examination, on the payment to the district board of a fee of five dollars; provided, such application shall be made within six months from and after

the passage of this act. Said certificate shall set forth the fact that the person to whom the same was issued was practising architecture in this state at the time of the passage of this act, and that the person therein named is entitled to a certificate to practise architecture without having to pass an examination by the district board; and the secretary of state shall, upon the payment to him of a fee of five dollars, issue to the person named therein a certificate to practise architecture in this state, in accordance with the provisions of this act. Each certificated architect shall have his certificate recorded in the office of the county recorder, in each and every county in this state, in which the holder thereof shall practise, and he shall pay to the recorder the same fee as is charged for the recording of deeds. A failure to have his certificate so recorded shall be deemed sufficient cause for revocation of such certificate.

§ 5. After the expiration of six months from the passage of this act, it shall be unlawful, and it shall be a misdemeanor, punishable by fine of not less than fifty dollars nor more than five hundred dollars, for any person to practise architecture without a certificate in this state, or to advertise, or put out any sign or card, or other device which might indicate to the public that he was an architect; provided, that nothing in this act shall prevent any person from making plans for his own buildings, nor furnishing plans or other data for buildings for other persons, provided the person so furnishing such plans or data shall fully inform the person for whom such plans or data are furnished, that he, the person furnishing such plans, is not a certificated architect; provided, that nothing in this act shall prevent the employment of an architect residing out of the state of California, to prepare plans and specifications for buildings or other structures within the state, conditioned he shall present satisfactory evidence to the board of the district in which the structure is to be erected, that he is a competent architect, when such board shall issue to such architect a temporary certificate for such employment, upon the payment of a fee of five dollars. Architects' certificates issued in accordance with the provisions of this act shall remain in full force until revoked for cause, as hereinafter provided for in this act. A certificate may be revoked for dishonest practices, or for gross incompetency in the practice of the profession, which questions shall be determined by the district board of the district in which the person whose certificate is called in question shall reside, or shall be doing business; and upon a full investigation of the charges by the district board, an opportunity having been given the accused to be heard in his own defense or by counsel; and upon the verdict of at least four members of the district board, the board may issue its certificate to the secretary of state revoking the certificate of the person accused; and the secretary of state shall thereupon cancel such certificate. And on the cancellation of such certificate, it shall be the duty of the secretary of the district board to give notice of such cancellation to the county recorder of each county in this state, whereupon the recorder shall mark the certificate recorded in his office, "Canceled."

After the expiration of six months the person whose certificate was revoked, may have a new certificate issued to him by the secretary of state upon the certificate of the district board by which the certificate was revoked.

Every certificated architect shall have a seal, the impression of which must

contain the name of the architect, his place of business, and the words "Certificated Architect," with which he may stamp all plans prepared by him.

§ 6. This act shall take effect from and after its passage.

§ 7. Each regularly certificated architect shall pay an annual license fee of five dollars, said fee to be paid to the secretary of the board of the district of which he shall be a resident, and shall be payable in advance on January one, and shall become delinquent the first day of April, of each year, after which date it shall be delinquent, and the certificate of such architect who shall fail to pay their license fees by April one of each year, shall be subject to cancelation by said district board, and notice of such cancelation shall be sent to each county recorder of the state of California and to the secretary of state, as provided in section five of the act to regulate the practice of architecture, approved March twenty-three, nineteen hundred and one, for cancelation of certificates. And the secretary of the said district shall issue a receipt signed by the president and secretary of the district, and under the seal of the district board, to each architect paying said license fee, showing that said certificated architect has paid his annual license fee, which license receipt shall be displayed in a prominent place in the office of said architect. The fees so collected shall be used to meet the expenses of the state board of architecture. [New section, Stats. 1903, 522.]

See tit. Public Works.

ARTESIAN WELLS.

To regulate the use of artesian wells, and to prevent the waste of subterranean waters in this state.

(Stats. 1877-8, 195, ch. CLIII; amended by repeal of § 8, 1901, 284, ch. CXXII.)

§ 1. Any artesian well which is not capped, or furnished with such mechanical appliance as will readily and effectively arrest and prevent the flow of water from such well, is hereby declared to be a public nuisance. The owner, tenant, or occupant of the land upon which such well is situated, who causes, permits, or suffers such public nuisance, or suffers or permits it to remain or continue, is guilty of a misdemeanor.

§ 2. Any person owning, possessing, or occupying any land upon which is situated an artesian well, who causes, suffers, or permits the water to unnecessarily flow from such well, or to go to waste, is guilty of a misdemeanor.

§ 3. An artesian well is defined, for the purposes of this act, to be any artificial well, the waters of which will flow continuously over the natural surface of the ground adjacent to such well at any season of the year.

§ 4. Waste is defined, for the purpose of this act, to be the causing, suffering or permitting the waters flowing from such well to run into any river, creek, or other natural watercourse or channel, or into any bay, lake, or pond, or into any street, road, highway, or upon the land of any person other than that of the owner of such well, or upon public lands of the United States or of the state of California, unless it be used thereon for the purposes and in the manner that it may be lawfully used upon the land of the owner of such well; provided, that this section shall not be so construed as to prevent the use of

such waters for the proper irrigation of trees standing along or upon any street, road, or highway, or for ornamental ponds or fountains, or the propagation of fish.

§ 5. Any person violating any of the provisions of this act may be proceeded against for a misdemeanor in any justice's court of the county in which such well is located, and shall, upon conviction, be fined for each offense not less than ten or more than fifty dollars. There shall also, upon conviction had, in addition to such fine, be taxed against such party the cost of prosecution. Such fine and costs may be collected as in other criminal cases, and the justice may also issue an execution upon the judgment therein rendered, and the same may be enforced and collected as in civil cases.

§ 6. It shall be the duty of the supervisors or roadmasters, on complaint of any citizen within their respective districts, and for that purpose may at all proper times enter upon the premises where such well is situated; and it shall be his duty to institute or cause to be instituted, criminal action for all violations of the provisions of this act, or for all public offenses defined in this act committed within such district.

§ 7. An act entitled "An act to regulate the use of artesian wells and to prevent the waste of subterranean waters in Santa Clara and Los Angeles counties," approved March eighteenth, eighteen hundred and seventy six, and all other acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

§ 8. Repealed. [Stats. 1901, 284.]

§ 9. This act shall take effect and be in force on and after the first day of July, A. D. eighteen hundred and seventy-eight.

FLOW OF WATER FROM—Prohibiting.—See 33 L. R. A. 781.

DISCHARGE OF MINERAL WATER FROM NOT ENJOINED.—See 41 L. R. A. 737.

ART GALLERIES, LIBRARIES, ETC.

To encourage and provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding, and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof.

(Stats. 1887, 26, ch. XXXII.)

§ 1. Any person intending in his lifetime or by will or trust deed, to operate after his death, to found, maintain, and perpetuate in this state a public library, museum, gallery of art, or any or all thereof, for the diffusion of mechanical, scientific, artistic, and general knowledge, may to that end and for such purpose, and for any purpose within the purview of the title of this act, convey in writing by words denoting a gift or grant to one or more trustees named in such gift or grant, and to their successors, any library or collection of books and works for such public library, or any museum, or

gallery of art in this state, and such gift or grant may also express and shall be construed to be a conveyance of the future additions and accretions thereof; and he may also in like manner, to that end, and for such purpose, convey by grant to such trustee or trustees any real property within this state belonging to him, which may be necessary or proper for the erection and maintenance of buildings suitable to such institution, and the buildings erected thereon, with grounds, conveniently adjacent thereto, and other lands, tenements, and hereditaments for the purpose of producing an income for the support and maintenance of such institutions, or any of them, and any collateral burdens which may be imposed by the terms of such foundation as part and parcel of the regulations for its conduct, and also personal property of all descriptions, which may subserve the purposes of the institution and maintenance of any such library, museum, or gallery of art.

§ 2. Any contributions or gifts by any other person than the founder, of any property suitable to the general plan or support of any institution mentioned in the title of this act, shall immediately vest in the trustees, and become incorporated into and subject to the trust, and to all its terms and conditions, and be managed under the rules and regulations prescribed therefor.

§ 3. The person making such gift, grant, or conveyance, as founder, may therein designate,—

1. The name by which the institution so founded and maintained shall be known.

2. Its nature, object, and purposes.

3. The powers and duties of the trustees, which shall not be exclusive of other powers and duties that, in their judgment, may be necessary more effectually to carry out the purposes of such institution.

4. The mode and manner and by whom the successors to the trustees named in the gift or grant shall be appointed.

5. Such rules and regulations for the management of such institution, and the furtherance of its purposes, as the grantor may elect to prescribe; but such rules and regulations shall, unless the grant shall otherwise prescribe, be deemed advisory only, and shall not preclude such trustees or their successors from making such changes as new conditions may, from time to time, require.

6. The place or places where the necessary buildings shall be erected, and the general character thereof. The person making such grant may therein provide for all other things necessary or proper to carry out the purposes thereof, or otherwise, by his last will or testament.

§ 4. The trustees named in such gift or grant, and their successors, may in the name of such institution designated in the gift or grant, sue and defend in relation to the trust property, and to all matters affecting the institution so founded and established.

§ 5. By a provision in such gift or grant, the founder may elect, in respect to the personal and real property conveyed, and the additions and increase thereof, and in respect to the erection, maintenance, and management of any buildings auxiliary thereto, and in respect to any property connected with such institution, to reserve to himself a veto and right of annulment or modi-

fication of any act of such trustees, in case he shall, within thirty days after notice of the performance of such act, file in the office of said trustees, or deliver to their president or principal officer, a notice in writing, of such veto, annulment, or modification, and upon a like notice, in conformity with a provision in such gift or grant, he may elect to perform during his life all the powers which, by the terms thereof, are vested in or enjoined upon the trustees therein named, and their successors; provided, that upon the death or disability to act of the founder and grantor, such powers and duties shall be devolved upon, and be exercised by, the trustees named in the gift or grant, and their successors. Such person may also reserve the right to alter, amend, or modify, at any time during his life, or by his last will and testament, the terms and conditions thereof, and the trusts therein created in respect to such institution, its buildings, and the property conveyed therefor.

§ 6. The founder shall have power in said deed of trust to name and describe the character and personality of any one or more of the immediate or future trustees, the librarian, and other officers, and to name and impose any particular duty to be performed by any one or more trustees or other officers so described and characterized, and to declare and limit any compensation, and fix the character and method of such compensation he may choose to provide for any such trustee or other officer whom the terms of his foundation may characterize, and upon whom specific or general duties shall be imposed.

§ 7. Any such gift or grant may be executed, acknowledged, and recorded in the manner now or hereafter provided by law for the execution, acknowledgment, and recording of grants of real property.

§ 8. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said gift, grant, or conveyance, or to affect the title to the property conveyed, or the right to the possession or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of the filing of such grant for record.

§ 9. Any person, being the founder, making a gift or grant for any of the purposes mentioned in this act, may, at any time thereafter, by last will or testament, devise or bequeath to the state of California all or any of the property, real, and personal, mentioned in such gift or grant, or in any such supplemental thereto, and such devise or bequest shall take effect in case, from any cause whatever, the gift or grant shall be annulled or set aside, or the trusts therein declared shall for any reason fail. Such devise or bequest is hereby suffered to be made by way of assurance that the intentions of the grantor shall be carried out, and in the faith that the state, in case it shall succeed to the property, or any part thereof, will, to the extent and value of such property carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor.

§ 10. The provisions of this act shall be liberally construed, with a view to effect its objects and purposes, and the singular number in the construction thereof shall be deemed to include the plural, and the plural number shall be deemed to include the singular.

§ 11. Nothing in this act shall repeal, modify, change, or have any effect upon any of the provisions of an act of the legislature of the state of California

entitled "An act to advance learning, the arts and sciences, and to promote the public welfare by providing for the conveyance, holding, and protection of property, and the creation of trusts for the funding, endowment, erection, and maintenance, within this state, of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March ninth, eighteen hundred and eighty-five.

§ 12. This act shall take effect immediately.

ASIATICS.

Certain statutes heretofore enacted upon the subject of the immigration and importation of Asiatics have not been repealed, but have been declared unconstitutional, and are therefore omitted.

See *Ex parte Ah Cue*, 101 Cal. 197, 35 Pac. Rep. 556, and cases there cited, and see Const. Cal. 1879, art. XIX.

As to Stats. 1865-6, 641, ch. DV, and the amendatory Stats. 1873-4, 84, ch. LXXXVI, relating to Chinese women and houses of ill-fame (continued in force by § 19, Political Code, and § 23, Penal Code), see

KERR'S CYC. PENAL CODE, §§ 174-179 inclusive, and § 315.

As to admission to places of amusement, etc., see **KERR'S CYC. CIV. CODE**, §§ 53, 54.

As to marriage with whites, see **KERR'S CYC. CIV. CODE**, § 60.

As to personal rights of, see **KERR'S CYC. CIV. CODE**, §§ 51, 52.

ASSOCIATED VETERANS OF MEXICAN WAR.

To authorize the trustees of the Associated Veterans of the Mexican War to exchange certain lands for certain other property belonging to said city and county, or for a lease of such property.

(Stats. 1871-2, 363, ch. CCLXIV; amended 1881, 68, ch. LVII.)

§ 1. The mayor of the city and county of San Francisco having executed in favor of "The trustees of the Associated Veterans of the Mexican War" a deed of conveyance of all of that certain piece or parcel of land situate in said city and county and bounded and described as follows, viz.: Commencing on the easterly line of Twenty-third Avenue two hundred and twenty-five (225) feet northerly from the northerly line of Clement Street and running thence northerly along said line of Twenty-third Avenue one hundred and fifty (150) feet; thence at right angles easterly two hundred and forty (240) feet to the westerly line of Twenty-second Avenue; thence southerly along said line of Twenty-second Avenue one hundred and fifty (150) feet; thence westerly at right angles two hundred and forty (240) feet to the point of commencement, being a portion of block number one hundred and sixty (160) of the outside lands, which deed was dated the twelfth day of August, A. D. eighteen hundred and seventy, and recorded in liber number five hundred and seventy-eight of deeds, page fourteen, et cetera, in the office of the county recorder of said city and county, and was authorized by an ordinance of the board of supervisors of said city and county.

§ 2. The said "The trustees of the Associated Veterans of the Mexican War," and their successors in office, are hereby empowered, at their pleasure, to execute and deliver unto the city and county of San Francisco, a deed of conveyance of the premises in the first section of this act described, at any time, upon their receipt from the mayor of said city and county of a lease for

the term of twenty-five years, rent free, or upon their receipt of a deed of conveyance from said mayor, of all that certain piece or parcel of land situate in said city and county, and generally described as follows, viz.: Commencing at a point one hundred and thirty-three (133) feet westerly from Third Street, and in the northerly line of Bryant Street, and running thence westerly along said line of Bryant Street twenty-two (22) feet by a uniform depth northerly of eighty (80) feet. The mayor shall, whenever he may be authorized so to do by the board of supervisors of said city and county, execute and deliver such lease, and receive the delivery of said deed and the possession of the land to be conveyed thereby, as aforesaid. Upon the execution of said deed and lease, or of such deeds, the title to the lands described in the first section hereof shall vest in the city and county of San Francisco, and the same may be thereafter granted or leased, and disposed of by said city and county, for such benevolent or charitable purposes as the board of supervisors of said city and county may, at any time, designate by order or resolution; and such lease or deed of the premises described in this section, executed by the mayor, shall inure to the benefit and use of the trustees of the Associated Veterans of the Mexican War, and their successors in office in trust for "The Associated Veterans of the Mexican War." [Amended 1881, 68.]

§ 3. This act shall take effect from and after its passage.

ATTORNEYS.

See **Attorney Fees; Prosecuting Attorney.**

ATTORNEY FEES—FORECLOSURE.

To abolish attorney's fees and other charges, in foreclosure suits.

(Stats. 1873-4, 707, ch. CCCCLXXIV.)

§ 1. In all cases of foreclosure of mortgage the attorney's fee shall be fixed by the court in which the proceedings of foreclosure are had, any stipulation in said mortgage to the contrary notwithstanding.

§ 2. All acts and parts of acts, so far as they conflict with the provisions of this act, are hereby repealed, and this act shall take effect and be in force from and after its passage.

Kern Valley Bank vs. Chester, 55 Cal. 49, 51; Stockton S. & L. Soc. vs. Donnelly, 60 Cal. 481, 483; Montgomery vs. Merrill, 62 Cal. 385, 393; Monroe vs. Fohl, 72 Cal. 568, 570, 14 Pac. Rep. 514; Granger's Business

Assoc. vs. Clark, 84 Cal. 201, 203, 23 Pac. Rep. 1081; Woodward vs. Brown, 119 Cal. 283, 309, 63 Am. St. Rep. 108, 51 Pac. Rep. 2, 542; Hotaling vs. Montieith, 128 Cal. 556, 557, 61 Pac. Rep. 95.

ATTORNEY-GENERAL—LIBRARY FOR.

To provide the office of the attorney-general with such law-books as may be required by him for the conduct of the business of his office, and requiring the state librarian to provide and furnish the same, and making an appropriation therefor, not to exceed five thousand dollars.

(Stats. 1895, 65, ch. LXIX.)

§ 1. The state librarian is hereby required to supply the office of the attorney-general with all the law-books deemed necessary by the attorney-

general for the conduct of the business of said office. Such books shall be taken from the law library of the state when the same are in possession of the library in duplicate, and transferred by him to the attorney-general's office for permanent use therein; and when such books are not so possessed in duplicate the state librarian shall purchase the same for said purpose, and he shall from time to time thereafter so supply such further books as the attorney-general may require.

The controller of the state shall draw his warrant on the order of the librarian for the amounts necessary for such purchases, not to exceed five thousand dollars, and the treasurer is hereby required to pay the same out of any moneys in the treasury not otherwise appropriated.

§ 2. This act shall take effect immediately.

BADGES.

See **Grand Army of the Republic.**

BALLOTING MACHINES.

Creating a state commission on voting or balloting machines, defining their powers, and providing for the use at the option of indicated local authorities of voting or ballot machines for receiving and registering the vote in one or more precincts of any county, or city and county, city or town, at any or all elections held therein, and for ascertaining the result at such elections; and providing for the punishment of all violations of the provisions of this act.

(Stats. 1903, 262, ch. CCXXVI.)

§ 1. 1. The governor, secretary of state and attorney-general, and their successors in office are hereby created and constituted the state commission on voting or ballot machines. It shall be the duty of said commissioners to examine all voting or ballot machines which may be offered for their inspection in order to determine whether such machines comply with the requirements of this act, and can safely be used by voters at elections under the provisions of this act; and no machine or machines shall be provided by the board of supervisors, or other board having charge and control of elections in each of the counties, and cities and counties, cities or towns of the state, unless the said machine or machines shall have received the approval of a majority of said commission as herein provided.

2. Any machine or machines which shall have the approval of a majority of said commission may be provided for use at elections by the boards authorized so to do under the provisions of this act. The report of said commission on each and every kind of voting or ballot machine shall be filed with the secretary of state within thirty days after their examination of said machines, and the secretary of state must within five days after the filing of any report approving any machine or machines, transmit to the boards of supervisors or other boards having charge and control of elections in each of the counties and cities and counties, cities or towns of the state, a list of the machines so approved.

3. No machine or machines shall be used unless such machine or machines shall have received the approval of the state commission at least ninety days prior to any election at which such machine or machines are to be used.

4. For carrying out the provisions of this act the members of the state commission under this act shall be allowed their actual necessary expenses.

§ 2. The board of supervisors, or other board having charge and control of elections in each of the counties, and cities and counties, cities or towns of the state, may at any regular meeting, or at any special meeting called for the purpose, provide for and require the use of a voting or ballot machine, or machines for receiving and registering the vote at any or all elections held in such county, city and county, city or town, respectively, or in any one or more precincts thereof, and every such board of supervisors, or other board having charge and control of elections in each of the counties, and cities and counties, cities or towns of the state, may determine upon and require the use of voting or ballot machines at any and all elections to be held within such county, city and county, city or town of the state, or in one or more precincts thereof, and thereupon the voting or ballot machine or machines so determined upon and required shall be used in voting for all public officers to be voted for by the voters of such counties, cities and counties, cities or towns of the state, or in the precinct or precincts thereof, for which the same shall have been so determined upon and required, and also in voting upon all amendments to the constitution, and upon all laws or propositions or questions which may be lawfully submitted to such voters, and for receiving and registering the votes cast at any and every such election.

§ 3. In purchasing the necessary voting or ballot machines to be used at elections, as herein provided, the boards of supervisors of the several counties, and the legislative bodies of the incorporated cities and towns therein, may, by agreement, entered into by said board of supervisors and the legislative body of any incorporated city or town in such county, provide for the joint purchase and subsequent ownership thereof, and for the care, maintenance and use of the same.

§ 4. No voting or ballot machine shall be approved by the said board unless the same be so constructed as to provide facilities for voting for the candidates of as many different parties or organizations as may make nominations for office and for and against as many different propositions or amendments as may be submitted; nor shall any such machine be approved unless the same will permit a voter to vote for any person for any office; it must enable the voter to vote and select a ticket all from [from all] the nominees of one party or a ticket selected in part from the nominees of one party and in part from the nominees of any or all other parties, and in part from independent nominations, or in part or in whole of the names of persons not nominated by any party or upon any independent ticket; such machines must also secure to the voter privacy and secrecy in the act of voting: such machines must also be so constructed that a voter cannot vote for a candidate or a proposition or amendment for whom or on which he is not lawfully entitled to vote, also to prevent voting for more than one person for the same office, except in cases where the voter is lawfully entitled to vote for more than one person for the same office, in which event

they must enable the voter to vote for as many persons for that office as he is by law entitled to vote, and no more; they must also prevent his voting more than once for the same person for the same office; and allow of his reversing his vote in case of mistake or desire to change; and such machines must be so constructed that all votes cast for any person voted for, or for or against any proposition or amendment submitted to the voters shall be accurately registered or recorded, and any machine to be approved by said board must be of such kind, style or pattern as will permit the exercise by each voter of the full right and privilege of his elective franchise under the constitution and laws of this state.

§ 5. The board of supervisors or other board having charge and control of elections adopting a voting or ballot machine shall, as soon as practicable thereafter, provide for such polling place or places, as they may determine, one or more voting machines in complete working order and also such other accessories as may be required for the practical working of the machine and shall thereafter preserve and keep the machines in repair, and shall have the custody of the furniture and equipment. If it shall be impracticable to supply each and every election district with a voting or ballot machine or machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election precincts within the county, or city and county, city, or town, as the board having control may direct.

§ 6. All necessary stationery and instructions to voters shall be delivered to the boards of election of each election precinct not later than twenty-four hours next preceding the election.

§ 7. Tally lists shall be so prepared that the results of such election may be clearly and accurately set forth and certified to by the officers of election.

§ 8. The precinct boards of election of each precinct shall meet at the polling-place therein, at least one hour before the time set for the opening of the polls at each election, and shall proceed to arrange within the guard-rail the furniture, stationery, and voting or ballot machine for the conduct of the election. The inspectors of election shall then and there have the voting or ballot machine, instructions to voters, and stationery required to be delivered to them for such election. The inspectors shall thereupon cause at least two instruction cards to be posted conspicuously within the polling-place. If not previously done, they shall adjust the voting or ballot machine so as to record and register the votes to be cast at such election, and adjust the registering and recording device of such machine so as to start at zero, and the same shall be subject to the inspection of the public before the opening of the polls.

§ 9. The exterior of the voting or ballot machine and every part of the polling place shall be in plain view of the election officers and public. The voting or ballot machines shall be placed at least three feet from every wall and partition of the polling-place, and at least three feet from the guard-rail. A guard-rail shall be constructed at least three feet from the machine, with openings to admit electors or officers of election to and from the machine.

§ 10. After the opening of the polls, the inspectors shall not allow any voter to pass within the guard-rail until they ascertain that he is duly entitled to

vote. The operation of voting by an elector while voting shall be secret and obscured from all other persons, except as provided in cases of voting by assisted electors. No voter shall remain within the voting or ballot machine booth longer than two minutes, and if he shall refuse to leave it after the lapse of two minutes he may be removed by the inspectors.

§ 11. As soon as the polls of the election are closed the inspectors of election thereat shall immediately lock the voting or ballot machine against voting, and, in the presence and full view of the public who may be lawfully within the polling place, proceed to demonstrate and declare the result of such election as registered or recorded or received by the machine. As such result is so ascertained and declared the clerks shall record it and at its completion, submit their records to the inspectors and judges for examination, and if found to be correct the inspectors shall at once announce the same, and make returns as provided by law.

§ 12. The inspectors of election shall, as soon as the result is fully ascertained and declared, as in the preceding section required, lock the machine so that the record of each election shall be preserved for the period of six months following such election, except in cases where the machine is required for use in a subsequent election during such period, in which case the board of supervisors or other board having charge and control of elections shall inspect the registering or recording and receiving device of the machines, and file a report of said inspection with the county clerk or registrar of voters. Said report of said board when so certified and filed shall be prima facie evidence of the vote at such election. Any supplementary or duplicate record of an election, which may be furnished by a machine, shall be preserved by the county clerk or registrar of voters for one year following such election.

§ 13. The provisions of the law relating to misconduct at elections shall apply to elections with voting or ballot machines.

§ 14. For any election in any county, city and county, city or town, in which voting or ballot machines are to be used, the election precincts in which such machines are to be used may be created by the officers charged with the duty of creating election precincts, so as to contain not to exceed six hundred votes each.

§ 15. The list of candidates used or to be used on the voting or ballot machine shall be deemed an official ballot under this act for an election precinct in which a voting or ballot machine is used, pursuant to law. The word "ballot" as used in this act, (except when reference is made to independent ballots) means that portion of the cardboard, or paper, or other material within the ballot frames, containing the name of the candidate for office, or a statement of a proposed constitutional amendment, or other question or proposition with the word "for" or the word "against," or "yes" or "no."

§ 16. The provisions of section eleven hundred and forty-two of the Political Code shall apply where voting or ballot machines are used.

§ 17. All laws and parts of laws of this state relating to elections and prescribing the powers and duties of election officers, shall, so far as applicable to the use of voting or ballot machines, remain in full force and effect; and all laws and parts of laws inconsistent herewith, shall not be applicable in each

county, city and county, city or town election precinct wherein such voting or ballot machines are used, pursuant to this act, so long as such voting or ballot machine or machines shall be used therein, and nothing in this act contained shall be construed as repealing any existing law or authorizing any deviation or omission therefrom, except as provided for or set forth herein.

§ 18. Any wilful violation of any provision of this act or any wilful injury to any voting or ballot machine tending to injure its effectiveness or to change the true expression given by the voters at any election shall be a felony and punishable as such, in accordance with the provisions of the Penal Code of the state.

§ 19. This act shall take effect immediately.

As to constitutionality of voting by voting machine, see *Opinions of the Justices (In Matter McTammany Voting Machine)*, 19 R. I. 729, 36 Atl. Rep. 716, 36 L. R. A. 547; *Opinion to the Governor (In re Voting Machines)*, 23 R. I. 630, 50 Atl. Rep. 265.

BANKS AND BANKING.

Bank Commissioners.

Creating a board of bank commissioners, and prescribing their duties and powers.

(Stats. 1903, 365, ch. CCLXVI; amendment Stats. 1905, 304, ch. CCXCVI.)

§ 1. Within ten days after the passage of this act the governor shall appoint, by and with the advice and consent of the senate, four competent persons, one of whom shall be an expert of accounts, to be styled bank commissioners; and the governor shall designate, at the time of such appointment, their respective terms of office in accordance with the following classification, viz.: Two of said commissioners shall serve for two years, and two for four years. Their successors shall be appointed by the governor, and hold their office for the term of four years and until their successors are appointed and qualified. Should a vacancy occur either by death, removal from the state or otherwise, the governor shall appoint his successor for the unexpired portion of his term. The persons who are so appointed shall have no official connection with nor be in the employ of any savings bank, bank, banking company, or banking society, nor shall they, during their terms of office, own or be interested in the stock or other property thereof. Said commissioners shall have their office in the city of San Francisco.

§ 2. The bank commissioners, before entering upon the duties of their office, must execute an official bond in the sum of twenty thousand dollars, and take the oath of office, all as prescribed by the Political Code for state officers in general.

§ 3. The duties of the bank commissioners shall be to prepare and furnish to every savings bank, bank, and banking company, or any other corporation incorporated under the laws of this state, or of any other state or territory, or foreign country, doing a banking business in this state, applying therefor, a license, in the form to be prescribed by them, authorizing such corporation to use the name and to transact the business of a savings bank, bank, or banking company, until the first day of July next thereafter; to receive and place on file in their office the reports required to be made by savings banks, banks, or

banking corporations, by this act; to prepare and furnish, on demand, to all persons, firms, partnerships, corporations, or officers required to make and return statements or reports to said bank commissioners by the provisions of this act, blank forms for such statements or reports as may by law be required of them; to make, on or before the first day of October in each year, a report to the governor of this state, containing a tabular statement and synopsis of the several reports which have been filed in their office since their last report, and any other proceedings had or done by them under this act, showing generally the condition of the respective savings, commercial and other banking corporations or institutions of this state, and such other matters as in their opinion may be of interest to the public, with a detailed statement, verified by their oaths, of all moneys and fees of office received by them during the same period.

§ 4. It shall be the duty of one or more of the bank commissioners, as designated by the commissioners, once in each year, and as often as in their judgment may be deemed necessary, without previous notice, to visit and make, personally, a full examination of each and every corporation mentioned in section three of this act; to inspect all books, papers, notes, bonds, or evidences of debt of such corporation, and all securities; to ascertain the condition of every such corporation, its solvency, its ability to fulfil its obligations, and, if in their opinion it is deemed necessary, report its condition to the attorney-general as soon as practicable after such examination.

§ 5. Such commissioners must examine, under oath, any of the officers, agents, and servants of any such corporation, in relation to the affairs and condition of such corporation, and may administer such oath personally; and whoever shall neglect or refuse, after demand and notice thereof, and without justifiable cause, to appear, or testify under oath, before the said commissioners in the discharge of their duties, shall be deemed guilty of misdemeanor, and on conviction thereof be punished by a fine not exceeding five thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

§ 6. If any bank commissioner shall have knowledge of the insolvency or unsafe condition of any corporation mentioned in this act, and shall neglect to report the same, in writing, to the attorney-general, as required by this act, he shall on conviction thereof be punished by a fine not exceeding ten thousand dollars nor less than five thousand dollars, or by imprisonment in the county jail not less than one year nor more than two years, or by both such fine and imprisonment, and his office shall be declared vacant by the governor, and a successor be appointed for the unexpired term.

§ 7. No corporation shall use the name or transact the business of a savings bank, or bank, or banking corporation, without the license provided for by section three of this act: and any corporation violating this provision shall forfeit the sum of one hundred dollars per day during the continuance of the offense; and any person who enters upon, engages in, or carries on, or in any manner attends to the business or management of a savings bank, or bank, or banking corporation, doing business without such license, whether as manager, principal, agent, officer, employee, or otherwise, shall forfeit the sum of one

hundred dollars for every day he so enters upon, engages in, or carries on, or attends to such business; and any violation of this section is also hereby declared to be a misdemeanor.

§ 8. Any corporation mentioned in section three of this act, including banks in liquidation or insolvency, shall, whenever required by the board of bank commissioners, make a report in writing to the commissioners, verified by the oath of its president and its secretary, or cashier, or its two principal officers. Said report shall show the actual financial condition of the corporation making the report at the close of any past day by the commissioners specified, by stating:

First—The amount of its capital stock, and the number of shares into which it is divided;

Second—The names of the directors, and the number of shares of stock held by each;

Third—The total amount actually paid, in money, by stockholders for capital stock, and the total amount of reserve fund, if any;

Fourth—The total amount due to depositors;

Fifth—The total amount and character of any other liabilities it may have;

Sixth—The amount at which the lot and building occupied by the bank for the transaction of its regular business, stands debited on its books, together with the market value of all other real estate held, whether acquired in settlement of loans or otherwise; the amount at which it stands debited on the bank books; in what county situated, and in what name the title is vested, if not in the name of the corporation itself;

Seventh—The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also, specifying the name of the person in whose name the property is held in trust, or as security, in case it is held in any name other than that of the bank, and the instrument creating the security does not of itself disclose the name of the bank;

Eighth—The amount invested in bonds, designating each particular class, and the amount thereof;

Ninth—The amount loaned on stocks and bonds, designating each particular class, and the amount thereof;

Tenth—The amount of money loaned on other securities, with a particular designation of each class, and the amount loaned on each;

Eleventh—The actual amount of money on hand or deposited in any other bank or place, with the name of the place where deposited, and the amount in each place;

Twelfth—Any other property held or any amount of money loaned, deposited, invested, or placed, not otherwise herein enumerated, with the place where situate, and the value of such property, and the amounts so loaned, deposited, or placed.

The oaths of the officers to the statements above required shall state that they, and each of them, have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true; and any wilfully false statement in the premises shall be perjury, and shall be punished as such. The reports as provided for by this section shall by the commissioners be required from each and every corpora-

tion herein mentioned at least three times in each year, and shall be transmitted to the commissioners within fifteen days after the receipt from them of a request or requisition therefor.

§ 9. Any corporation mentioned in section three of this act failing to furnish to the bank commissioners any report by them required under the provisions of this act within the time herein specified, shall forfeit the sum of one hundred dollars per day during the time of such default.

§ 10. If the bank commissioners, on examination of the affairs of any corporation mentioned in section three of this act, shall find that any such corporation has been guilty of violating its charter, the laws of this state, or any of the provisions of this act, or is conducting business in an unsafe manner, they shall, by an order addressed to the corporation so offending, direct discontinuance of such illegal and unsafe practices, and a conformity with the requirements of the law and its charter, and of the provisions of this act. And if such corporation shall refuse or neglect to conform with such requirements before the expiration of the time in the order specified, or if it shall appear to said commissioners and they shall unanimously decide that it is unsafe for any such corporation to continue to transact business, it shall be the duty of the commissioners immediately to take such control of such corporation, and all the property and effects thereof, as may be necessary to prevent waste or diversion of assets, and to hold possession of the same until the order of court hereinafter mentioned, and to immediately notify the governor and the attorney-general of their action; and it is hereby made the duty of the attorney-general, upon receiving such notification, to immediately commence suit in the proper court against such corporation, and all the directors or trustees thereof, to enjoin and prohibit them from the transaction of any further business. If upon the hearing of the case the court shall find that such corporation is solvent and may safely continue business, it shall dismiss the action, and order that the corporation be restored to the possession of the property, but if the court shall find that it is unsafe for such corporation to continue business, or that such corporation is insolvent, said court shall by its decree order such corporation into involuntary liquidation, and shall issue the injunction applied for, and shall cause the same to be served according to law, and shall order the commissioners to surrender the property of the corporation in their possession to a receiver appointed by the court for the purpose of liquidation in such proceeding, under the orders and direction of the court. The issuance of the injunction hereinbefore provided for shall, by operation of law, dissolve any and all attachments levied upon any property of such corporation within one month next preceding the date of the notification by the commissioners to the governor and the attorney-general as provided for in this section; and no attachment or execution shall, after the issuance of such injunction and during the process of liquidation, be levied upon any property of such corporation, nor shall any lien be created thereon. If a receiver be appointed, before surrendering to him the property of the corporation for purposes of liquidation, the person named as receiver shall execute to the people of the state of California, an undertaking, with sufficient sureties, in an amount to be fixed by the court, that he will well and truly perform all the duties devolving on him by reason of such receivership, and that he will faithfully discharge the duty of

receiver in the proceeding, and obey the orders of the court therein. Every receiver appointed under the provisions of this section shall make report of the conditions of the affairs under his charge to the bank commissioners in the same manner as the solvent banks mentioned in this article are, by law, required to do, and, in addition thereto, shall state the amount of dividends paid, debts collected, and the money realized on property sold, if any, since the previous report. The bank commissioners shall have the power, and it is hereby made their duty, to examine the conditions of the affairs of every such corporation in liquidation, in the same manner as in case of solvent banks, businesses, and institutions, and they shall have a general supervision of the affairs of such corporation in liquidation. They shall have the power to limit the number of employees necessary to close up the business of any such corporation in liquidation, and also to limit the salaries of the same, and shall do all in their power to make such liquidation as economical and as expeditious as the interests of the creditors, depositors, and stockholders will admit. If any officer or employee of any association or corporation solvent, insolvent, or in liquidation, or if any other person, shall refuse to comply with the provisions of this section, or disregard or refuse to obey the directions of said bank commissioners, given in accordance with the provisions of this act, such person, officer, or employee shall be punished by a fine not exceeding five thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. When the receiver herein provided for shall have been appointed and qualified, the duties of the attorney-general shall end.

The bank commissioners shall, by a resolution entered upon its minutes, concurred in by at least three members, have power to employ legal counsel for any of the purposes mentioned in this section or to enforce any of the penalties prescribed by this act, without the consent of the attorney-general, the expense thereof to be a charge against the individual bank concerning which said services are required, and if more than one bank, then pro rata among such banks.

§ 11. The bank commissioners shall each receive a salary of three thousand six hundred dollars per annum, and necessary traveling expenses, not to exceed, for the four commissioners, the sum of four thousand dollars per annum, to be audited by the state controller and paid by the state treasurer, in the same manner as the salaries and expenses of other state officers. No person while holding any other office, or engaged in business of any kind requiring his personal attention between the hours of nine a. m. and four p. m., shall serve as bank commissioner.

§ 12. The bank commissioners shall furnish each member of the legislature with a copy of their annual report, at each session of the legislature during the first week of the session.

§ 13. The bank commissioners shall have the power to appoint a secretary, at a salary of three hundred (\$300) dollars per month.

It shall be the duty of the secretary whenever required by the bank commissioners to visit and make personally a full examination of any corporation mentioned in section three (3) of this act and report its condition to the bank

commissioners, and the secretary shall be allowed his actual expenditures necessarily incurred in making such examination and report and for this purpose the secretary of the bank commissioners is hereby empowered to administer oaths.

The said commissioners shall keep their office open for business from nine o'clock a. m. until four o'clock p. m. every day, except non-judicial days. They shall procure rooms necessary for their office, at a rent not to exceed one hundred (\$100) dollars per month. They may also provide stationery, fuel and other conveniences necessary for the transaction of their duties, not exceeding in the aggregate the sum of four thousand (\$4000) dollars per annum, and cause their annual reports to the governor of this state to be printed by the lowest bidder and distributed, at a cost not to exceed two thousand (\$2000) dollars per annum, and which printing shall be exempt from the provisions of article twelve, chapter three, title one, part three of the Political Code. All expenditures authorized in this section shall be audited and paid in the same manner as the salary of the commissioners. [Amendment, Stats. 1905, 305.]

§ 14. All reports required to be made to the bank commissioners by the provisions of this act shall be filed, and kept on file, by the bank commissioners, in their office, and shall be open to the inspection of the public during their office hours.

§ 15. To pay the salaries, the cost of printing the bank commissioners' annual reports, and all other necessary expenses of the commissioners, as provided for in this act, every corporation, person or partnership receiving a license shall pay annually therefor, in advance, to the commissioners, in gold coin, the sum of forty (\$40) dollars. To meet the balance of such expenses, after deducting therefrom the amount received from licenses, each of said corporations, persons and partnerships shall pay annually, in advance, to the commissioners, in gold coin, its, his or their share of the amount of said balance; the share to be paid by any such corporation, person or partnership to be determined by the proportion which the deposits of any such corporation, person or partnership bear to the aggregate deposits of all such corporations, persons or partnerships receiving licenses, as shown by the latest reports of such corporations, persons and partnerships to the commissioners. Said commissioners shall, on demand made therefor, and without charge, furnish to every corporation, society, association, company, institution, partnership, person or persons, mentioned in this act, copies of papers, statements and reports filed in their office, and may, as provided by this act, recover any and all moneys payable to them by any corporation, association, society, company, institution, partnership, person or persons herein mentioned; and all moneys collected or received by such bank commissioners, or either of them, under or by virtue of the provisions herein, shall be by them delivered to the treasurer of this state, who shall pay the same into a fund which is hereby created, and which shall be known as the "bank commissioners' fund." And the unexpended balances of all moneys heretofore paid into the state treasury by said bank commissioners shall be transferred to said fund and become a part thereof. [Amendment, Stats. 1905, 305.]

§ 16. The bank commissioners shall keep proper books of record of all acts,

matters, and things done by them under the provisions of this act, which shall be open to the inspection of the public during their office hours.

§ 17. The bank commissioners or either of them may issue subpoenas for witnesses to attend and testify before them or either of them on any examination by this act authorized, which must be served, obeyed, and enforced as provided in the Code of Civil Procedure for civil cases; the commissioners to issue attachments, and impose the penalty for disobedience, and the witnesses may be punished as provided in the Penal Code.

§ 18. The bank commissioners may sue for and recover, in the name of the people, in any court of competent jurisdiction, all sums of money which become due, payable, or forfeited by any of the provisions of this act.

§ 19. The commissioners shall, upon the expiration of their term of office, deliver to their successors, or if there be none, then to the controller of state, all property, books, reports, and papers of every description pertaining to their office.

§ 20. Every person engaged for himself, or any person being the cashier, manager or agent of two or more persons, not incorporated, engaged in the business of banking in this state, or publicly receiving money on deposit, must apply for and take out a license for such privilege, and shall be subject to the same requirements, limitations, liabilities, penalties and provisions as are in this act provided for incorporated banks or banking corporations, so far as the same appertain to said business. [Amendment, Stats. 1905, 306.]

§ 21. The use of the word "bank," or any other word or terms denoting or implying the conduct of the business of banking, or the use of the word "savings," alone or in connection with other words denoting or implying the conduct of the business of a savings institution, or a savings and loan society, is hereby prohibited to all persons, firms, associations, companies, or corporations other than those subject to the supervision of the bank commissioners or required by this act to report to them, and no license as in this act provided shall be issued by the commissioners to any corporation that does not receive money from the public as deposits in manner customary with commercial or savings banks. Any person, firm, association, company, or corporation not subject to the supervision of the bank commissioners or not required by this act to report to them, making use of terms implying conduct of a bank, savings bank, or savings and loan society by means of signs, advertisements, letter heads, bill heads, blank notes, blank receipts, certificates, circulars, or any written or printed or partly written and partly printed paper whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank, or savings and loan society, shall forfeit for each day the offense is continued the sum of one hundred dollars, to be recovered as provided in this act.

§ 22. The commission hereby established shall be the legal successor of the bank commissioners created by the act creating a board of bank commissioners, approved March thirty, eighteen hundred and seventy-eight, and the acts amendatory thereto, and shall be entitled to have and receive all the books, records and other property acquired by and belonging to the said bank commissioners and shall be substituted for and continue in the stead and place of

said bank commissioners all suits, actions and proceedings at law now pending wherein said bank commissioners are a party.

§ 23. No bank, banking corporation, person, or partnership, shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six (6) months from the time of its purchase, be sold at public or private sale; and in default thereof, after demand by the bank commissioners, the charter of such corporation shall be deemed forfeited and the bank commissioners may institute liquidation proceedings against said corporation, as is provided in section ten of this act. [Amendment, Stats. 1905, 306.]

§ 24. Every banking corporation, except savings banks, and every person and partnership doing a banking business, shall at all times have on hand in cash an amount equal to at least twenty (20%) per centum of its demand or immediate liabilities and time certificates of deposit, if its principal place of business is located in any city of the state having a population of two hundred thousand (200,000) and over; and an amount equal to at least fifteen (15%) per centum of its demand or immediate liabilities and time certificates of deposit, if its principal place of business is located elsewhere in the state. One half of such cash reserve may consist of moneys on deposit subject to call with any solvent bank or trust company.

Cash shall include specie, national bank notes, legal tender notes, and all paper obligations of the United States circulating as money, and exchanges for clearing-house associations. [Amendment, Stats. 1905, 305-307.]

§ 25. No corporation which has or shall be incorporated under the general laws of this state authorized by its articles of incorporation to act as executor, administrator, guardian, assignee, receiver, depository or trustee shall be permitted to act or be appointed as such unless it shall have a paid-up capital of not less than one hundred thousand (\$100,000) dollars, of which one hundred thousand (\$100,000) dollars shall have been actually paid in in cash. [New section added, Stats. 1905, 305-307.]

§ 7. All acts or parts of acts in conflict with this act are hereby repealed.

§ 8. This act shall take effect immediately.

The irregularity occurring in the numbering of the sections in the foregoing statute occurs in the volume issued by the state.

The following repealing act was also passed (Stats. 1903, 73, ch. LXV):

To repeal an act entitled "An act creating a board of bank commissioners and prescribing their duties and powers," approved March thirtieth, eighteen hundred and seventy-eight, and as amended by an act approved March tenth, eighteen hundred and eighty-seven, and as amended by an act approved March twenty-fifth, eighteen hundred and ninety-five, relating to the powers and duties of such bank commissioners.

§ 1. An act entitled "An act creating a board of bank commissioners, and prescribing their duties and powers," approved

March thirtieth, eighteen hundred and seventy-eight, and as amended by an act approved March tenth, eighteen hundred and eighty-seven, and as amended by an act approved March twenty-fifth, eighteen hundred and ninety-five, relating to the powers and duties of such bank commissioners, is hereby repealed.

§ 2. This act shall be in force and take effect from and after its passage.

Relating to the repealing statute, see *Union Sav. Bank vs. Leiter*, 145 Cal. 710.

HISTORY: Following is the legislative history of the foregoing subject, with reference to supreme court decisions:

DECISIONS.—Stats. 1863-4, and as to the early statute of 1863-4, 158, see *Laidlaw vs. Pacific Bank*, 137 Cal. 392, 394, 70 Pac. Rep. 277.

Stats. 1877-8, 740, ch. CCCCLXXXI.—Wells

Fargo & Co. vs. Coleman, 53 Cal. 416; Bank of British N. A. vs. Cahn, 79 Cal. 463, 465, 21 Pac. Rep. 863; People vs. Superior Court, 100 Cal. 105-117, 34 Pac. Rep. 492; Long vs. Superior Court, 102 Cal. 449, 450, 36 Pac. Rep. 807; Savings Bank vs. Superior Court, 103 Cal. 27, 32, 36 Pac. Rep. 1015; Crane vs. Pacific Bank, 106 Cal. 64, 69, 39 Pac. Rep. 215, 27 L. R. A. 562; Laidlaw vs. Pacific Bank, 137 Cal. 392-394, 70 Pac. Rep. 277; Bories vs. Union Building & L. Assoc., 141 Cal. 74-78, 74 Pac. Rep. 552.

Amendment 1887, 90, ch. LXXX.—§ 11—Long vs. Superior Court, 102 Cal. 449, 450, 36 Pac. Rep. 807; Savings Bank vs. Superior Court, 103 Cal. 27, 32, 36 Pac. Rep. 1015. §§ 4, 21—Crane vs. Pacific Bank, 106 Cal. 64, 69, 39 Pac. Rep. 215, 27 L. R. A. 562. § 11—Lanz vs. Fresno etc. Bank, 125 Cal. 456, 457,

58 Pac. Rep. 63; Bories vs. Union Building & L. Assoc., 141 Cal. 74-78, 74 Pac. Rep. 552.

Amendment 1895, § 11, 172, ch. CLXVII.—Braslan vs. Superior Court, 124 Cal. 123, 56 Pac. Rep. 792; People vs. Bank of Mendocino, 133 Cal. 107, 108, 65 Pac. Rep. 124; Argues vs. Union Savings Bank, 133 Cal. 139, 140, 65 Pac. Rep. 307; Bank of National City vs. Johnston, 133 Cal. 185, 186, 65 Pac. Rep. 383; Union Sav. Bank vs. Dunlap, 135 Cal. 628-631, 67 Pac. Rep. 1084; Bories vs. Union Building & L. Assoc., 141 Cal. 74-78, 74 Pac. Rep. 552.

For duties of corporations acting as trustees, executors, etc., see Corporations, Stats. 1891, 490, ch. CCLXIV, given herein, ante.

As to reports of unclaimed deposits, see next succeeding statute and reference there made.

BANKS AND BANKING—INTEREST.

Savings Banks.

To compel savings banks to publish a sworn statement of all unclaimed deposits.

(Stats. 1893, 183, ch. CLIV.)

The above statute is now carried into the Civil Code (Stats. 1905, 581, ch. CDXXX). See **KERIN'S CYC. CIV. CODE**, § 583b.

Stats. 1897, 27, ch. XXIX, relating to deposit statements by commercial banks, is by the same statute repealed.

As to early statute of 1862, see Mulcahy vs. Hibernia Sav. & L. Soc., 144 Cal. 219, 222, 77 Pac. Rep. 910.

See general note at end of title Corporations, post.

BANKS AND BANKING.

Dissolution of Savings Banks.

Providing for the dissolution and winding up of savings banks, trust companies, and banks of deposit, and providing for the disposition of all funds deposited therein and not claimed within five years after such banks have ceased to do business, or after commencement of proceedings to dissolve.

(Stats. 1891, 271, ch. CXC.)

§ 1. That any savings bank or trust company or bank of deposit heretofore created or which may be hereafter created shall have the right, on application of the stockholders or members to the superior court of the county wherein its principal place of business is situated, to dissolve said corporation in the manner provided for in title six, part three, of the Code of Civil Procedure.

§ 2. It is hereby made the duty of every person or corporation holding funds of any savings bank or trust company or bank of deposit, at the end of five years from and after [the time] such bank has ceased to receive deposits or do business, to pay the same into the state treasury, which money shall be held in the state treasury in a fund which is hereby designated as "the dissolved savings bank fund"; and at the same time it shall be the duty of such person or corporation to furnish to the state controller a list of the names of all depositors to whom said moneys belong or to whom said bank owes the same.

§ 3. The money in said "the dissolved savings bank fund" may be drawn out on the warrants of the state controller, issued on proofs of ownership, approved and allowed by the state board of examiners.

§ 4. All moneys paid into the said "the dissolved savings bank fund" un-

called for within five years after being paid in shall escheat to the state, and thereafter only drawn out in such manner as now provided for by law for the estates of deceased persons escheated to this state.

§ 5. That any person or corporation failing to comply with the provisions of this act shall be liable to the state of California for the amount of money so retained by them contrary to the provisions of the first four sections of this act; and the attorney-general of this state is hereby authorized, empowered, and directed to bring action, in the name of the people of the state of California, in such manner and upon the same terms as now provided for escheated estates, to recover judgment for said money, and when so recovered, to be paid into the state treasury and held subject to the provisions of this act; provided, that said fund shall be liable for the expense of the recovery of the same, to be paid out upon demands audited by the state board of examiners.

§ 6. Whenever and as often as there is in the state treasury to the credit of the said "the dissolved savings bank fund" the sum of ten thousand dollars, the state board of examiners must invest the same in civil funded bonds of this state, or in bonds of the United States, or in bonds of the several counties of this state; the investments to be made in such manner and upon such terms as the board shall deem for the best interests of the said "the dissolved savings bank fund"; provided, that no bonds of any counties shall be purchased, of which the debt, debts, or liabilities at the time exceed fifteen per centum of the assessed value of the taxable property of said county.

§ 7. All bonds purchased by the board under the provisions of this act must be delivered to the state treasurer, who shall keep them as a portion of said "the dissolved savings bank fund," the interest upon such bonds to be placed by him to the credit of said fund.

§ 8. Whenever the moneys on hand in the state treasury, to the credit of the said "the dissolved savings bank fund" is not sufficient to pay the claims allowed by the state board of examiners against said fund, it shall be the duty of said board to sell such bonds belonging to said fund as they may deem proper, for the purpose of providing funds for the payment of such claims so allowed by them.

§ 9. This act shall take effect from and after its passage.

BENICIA—CITY OF.

To cede certain property to the city of Benicia.

(Stats. 1855, 239, ch. CLXXXVII.)

§ 1. The state of California hereby grants to the city of Benicia the entire water front of said city, and all of the right, title and interest, of the said state, in and to all of the lands within the corporate limits of said city which are subject to overflow; provided, that nothing in this act shall be so construed as to convey any right or title to any part of the water front which lies east of a north and south line drawn from the most western part of the land belonging to the United States, and now used for military purposes; and provided further, that nothing herein shall be so construed as to convey to said city any part of her water front which may extend into the Straits of Carquinez beyond where the water is eighteen feet deep at low tide.

§ 2. The said water front and overflowed lands herein granted shall not be subject to execution upon any judgment against the said city of Benicia, but may be sold from time to time by the authorities of said city, in such manner as will be most to the interest of the same.

§ 3. Said cession is made upon this express condition, that the authorities of the city of Benicia shall not sell the property ceded without first giving notice of said sale by publication in at least one daily newspaper in San Francisco, and one newspaper, if one be published, in the county of Solano for thirty days preceeding said sale, and that said property so ceded shall be sold at public auction to the highest bidder, and in separate lots not exceeding in size one hundred feet, by one hundred and sixty feet in size.

§ 4. Any person who has erected useful and substantial buildings upon any of the property ceded to the city of Benicia by this act, believing that he had good title to such property by virtue of a purchase from the founders of the city shall have the privilege within six months from the passage of this act, of purchasing the lots on which they have built, at private sale, from the said city, and at a fair valuation of the lot without the buildings; such valuation to be determined by the city council.

This and other acts affecting title to lands in Benicia are referred to in Shirley vs. City of Benicia, 118 Cal. 344, 50 Pac. Rep. 404.
It is deemed unnecessary to publish the

other acts here, as space must be conserved where possible; and see **MUNICIPAL CORPORATIONS**, title **Benicia**.

BICYCLES—TRICYCLES—LICENSE.

To authorize counties, cities and counties, and incorporated cities, to license bicycles, tricycles, and similar vehicles, and to collect a fee therefor, for the purpose of devoting such fee to the construction of paths along country roads for the use of pedestrians and the wheeling thereon of such vehicles.

(Stats. 1901, 324, ch. CXLIX.)

§ 1. Counties, cities and counties, chartered or incorporated cities and towns in the state of California, are hereby, through the governing bodies thereof, authorized and permitted to license the use of bicycles, tricycles, automobile carriages and carts, and similar wheeled vehicles propelled by the power of the rider, or by motor under control of the rider, owned, rented, and used within the several jurisdictions above named; provided, that such license shall be granted and issued only on payment of a fee not to exceed one dollar a year for each of such vehicles; and further provided, that the money so collected shall be appropriated and used only for the purpose of constructing and maintaining paths and walkways for the use of pedestrians, and the wheeling of the above-named vehicles; and provided also, that the sum of the taxes paid to the state, county, towns, or municipality, upon any vehicle the use of which is hereby authorized to be licensed, shall be deducted from the amount of the license fee hereby authorized, and credited upon the license; it being the intention that any license fee hereby authorized shall be collected in such less sum as is represented by the subtraction of the personal property tax from the sum of the license fee fixed by such ordinance.

§ 2. When an ordinance establishing such license and fixing such license fee is passed, the fee shall be collected and the license issued in the manner and

by the officer or officers provided for the issuance and collection of other licenses, and the governing body of such jurisdictions named in section one of this act may devise such label, tag, or certificate as is deemed necessary to be witness of the possession of such license, and the payment of such fee; provided, that no license shall be required for any vehicle so named in this act as is in the possession of a merchant, manufacturer, or dealer, for the purposes of sale or barter, and not for use by the owner or his or her agent, or by persons to whom such vehicles are rented for use, by the hour, the day, the week, or other period of time.

§ 3. It shall be lawful for such governing bodies to provide in such ordinance or ordinances for the enforcement of penalties for the violation thereof, or for failure or refusal to take such license, or pay such license fee; provided, that no penalty shall exceed the sum of the said license fee, with the costs of collection and prosecution under the ordinance added thereto; nor shall any judgment of imprisonment exceed a period of twenty-four hours for violation of said ordinance.

§ 4. It shall be lawful to provide in any such ordinance authorized by this act, for the application of the money collected to the construction and maintenance of such paths, by said towns or cities, or consolidated cities and counties, without the limits of such town and municipal jurisdictions, but within the county, by and with the consent of the board of supervisors of such county.

§ 5. No municipal or town authority in this act referred to shall have authority by ordinance or otherwise to license any such vehicle for use as is in this act referred to, except the same is owned by a resident of such municipal or town jurisdiction, or is used by a resident of such jurisdiction; nor shall any county, by ordinance or otherwise, lay such license upon the use of any such vehicle named in this act, or require a license fee therefor, except the same is owned or used by a resident of the county without the boundaries of town or municipal jurisdictions in the county; provided, that if any town or municipal authority authorized under this act does not provide for such ordinance of license and fee as is permitted by this act, then, and in that case, the governing body of the county may by ordinance provide for the license herein provided for and permitted, and the collection of the fee authorized by this act, so as to make the same applicable to the residents of such town or municipality. But in no case shall any license or fee be required of travelers in counties other than that of their residence, nor from tourists, or visitors, or temporary residents of any city, town, city and county, or county.

§ 6. All costs and charges for licenses herein provided for, for tags, or visible evidences of issuance and possession of license, for receipts for payment of the license fee, and other necessary and inseparable expense related to such licenses, shall be paid from the sum of such collections of fees; provided, that no additional salary or fee shall be paid to any officer of any county, or town, or city, or city and county, for services in issuing or delivering licenses provided for by this act, or for collecting the fees therefor, authorized and provided for in this act.

§ 7. This act shall take effect and be in force from and after its passage.

Bicycles, Paths for.—Relating to the granting by counties and municipalities of franchises for the construction of paths and roads for the use of bicycles and other horseless vehicles.—Stats. 1897, 191, ch. CXXX. This statute has been carried into

the Civil Code by Stats. 1905, 578, ch. CDXXVII. See **KERR'S CYC. CIV. CODE**, § 524.

See **Motor Vehicles — Registration of.**—Stats. 1905, 816, post.

BIG TREE GROVES.

To protect the groves of big trees in the counties of Fresno, Tulare, and Kern.
(Stats. 1873-4, 347, ch. CCXLIX.)

§ 1. Any person or persons who shall wilfully cut down or strip of its bark, any tree "over sixteen feet in diameter" in the grove of big trees situated in the counties of Fresno, Tulare, or Kern, or shall destroy any of said trees by fire, shall be guilty of a misdemeanor, and shall, on conviction thereof before any justice of the peace in said counties, be fined not less than fifty (\$50) dollars nor more than three hundred (\$300) dollars, or imprisonment in the county jail not less than twenty-five (25) days nor more than one hundred and fifty (150) days, or both fine and imprisonment, as the court may determine.

§ 2. Upon the arrest and conviction of any person or persons guilty of any of the acts before mentioned, the party informing shall be entitled to one half of the fines collected.

§ 3. This act shall take effect and be in force from and after its passage.

See next following act, and see **Yosemite Valley**, receding to United States, and notes, post.

BIG TREE GROVES—YOSEMITE.

To provide for the management of the "Yosemite Valley and the Mariposa Big Tree Grove."

(Stats. 1880, state ed. 44, ch. LVIII; amended 1885, 212, ch. CLXIII.)

§ 1. The governor of the state of California and the eight other commissioners appointed by him, in accordance with the act of Congress entitled "An act authorizing a grant to the state of California of the Yosemite Valley and the land embracing the Mariposa Big Tree Grove," approved June thirteenth, eighteen hundred and sixty-four, shall constitute a board to manage such premises, and the governor shall be ex officio member of the commission and president of the board. The term of office of said commissioners shall be four years; provided, that the eight first appointed shall so classify themselves that four shall go out of office in two years, and four in four years; and hereafter the appointments shall be made four each two years. Vacancies occurring in said commission from death, resignation, or other causes, shall be filled by appointment by the governor, to serve for the unexpired term only.

§ 2. The commissioners shall be known as the "commissioners to manage the Yosemite Valley and the Mariposa Big Tree Grove," and they and their successors shall have power to sue and be sued, and have full power to manage and administer the grant made and the trust created by said act of congress, and to make and adopt all rules, regulations and by-laws for their own government, and government, improvement, and preservation of such premises.

§ 3. The principal place of business of said commissioners shall be in the

Yosemite Valley, and they shall meet at their office in said valley on the first Wednesday of June of each year, and may meet oftener in Yosemite, or in San Francisco, or Sacramento, when a majority of the commissioners deem it expedient to do so. Not less than thirty days notice of such meeting shall be given in the official newspapers of the counties of Mariposa and Tuolumne, and in one newspaper of the city and county of San Francisco; and all meetings of the board of Yosemite commissioners shall, at all times, be open to the public. The said commissioners shall receive no compensation, other than necessary traveling expenses incurred in performing the duties of the board as prescribed in this act. [Amendment, Stats. 1885, 212.]

§ 4. Said commissioners shall elect a suitable person as guardian of the Yosemite Valley and Mariposa Big Tree Grove, who may be one of said commissioners. Said guardian shall hold his office during the pleasure of the board of commissioners, shall be subject to their orders, and may be removed at any regularly called meeting of said commissioners. He shall receive the sum of one hundred and twenty-five dollars per month, payable monthly, which salary shall be paid from the state treasury in the same manner as the salaries of state officers are paid. All moneys derived from leases of privileges within the grant of the Yosemite Valley and Mariposa Big Tree Grove, shall be expended in the preservation and improvement of the valley, or the roads leading thereto, by order of the board of commissioners and under the supervision of said guardian. No exclusive franchise of any kind shall be granted by said commissioners. All accounts relating to the receipts and expenditures of money, as of all papers, vouchers, and documents, belonging to the business transactions of said board of commissioners, shall at all times be open to public inspection. All moneys received by said commissioners from whatever source, shall be deposited in the state treasury, and there known as the Yosemite fund, and the state treasurer shall pay out said fund only upon the warrant of the state controller. All disbursements of said moneys shall be in the following manner: The said commissioners shall draw their warrant upon the state controller, and the controller shall draw his warrant upon the state treasurer, and the treasurer shall thereupon pay the same. It shall be unlawful for the commissioners to disburse, or cause to be disbursed, any such moneys in any manner different from that specified in this act. [Amendment, Stats. 1885, 212.]

§ 5. The said commission shall, immediately after organizing, demand from the commissioners now acting all the books, papers, and documents of any and every kind pertaining to the business of said board, and it shall be the duty of the commissioners now acting to immediately comply with said demand.

§ 6. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect from and after its passage.

People vs. Ashburner, 55 Cal. 517-519. See **Yosemite Valley**, receding to United States, and notes, post.

BLINDNESS—IN INFANTS.

To regulate medical practice to prevent blindness in infants.

(Stats. 1897, 12, ch. XIV.)

§ 1. Should one or both eyes of an infant become reddened or inflamed at any time within two weeks after birth, it shall be the duty of the midwife,

nurse, or person having charge of said infant, to report the condition of the eyes at once to some legally qualified practitioner of medicine of the city, town, or district in which the parents of the infant reside.

§ 2. Any failure to comply with the provisions of this act shall be punishable by a fine not to exceed one hundred dollars, or imprisonment not to exceed six months, or both.

§ 3. This act shall take effect from and after its passage.

BLUE BOOK—STATE.

To provide for the compilation, printing, binding, publishing and distribution of a legislative manual and state blue book, or roster, and repealing conflicting acts.

(Stats. 1903, 19, ch. XVI.)

§ 1. The secretary of the state is hereby authorized to compile, or cause to be compiled, published and distributed seven thousand five hundred copies of a legislative manual, state blue book, or roster. The volume shall be ready to distribute at the beginning of the next fiscal year, and at the same time biennially thereafter.

§ 2. The volumes shall be distributed as follows:

To the governor of the state, fifty copies.

To each elective state officer, senator and member of the assembly, twenty copies.

To the clerk, sheriff and district attorney of every county of the state, one copy each.

To every judge of the supreme court, supreme court commissioners, and judges of the superior court, one copy each.

To the mayor of every city, or chairman of its board of trustees in this state, one copy each.

To the state library, twenty copies.

To every public and every law library in this state, one copy each.

To the governor and secretary of state of every state in the union, one copy each.

To the Congressional Library at Washington, District of Columbia, five copies.

To each high school in this state, one copy.

The remainder of the volumes shall be distributed at discretion by the secretary of state.

§ 3. The acts of March thirty-first, eighteen hundred and ninety-one, and March twenty-third, eighteen hundred and ninety-three, on same subject, and all other acts in conflict with the provisions of this act are hereby repealed.

§ 4. This act shall take effect from and after its passage.

BLUE CRANES.

To prevent the capture and destruction of blue cranes, in this state.

(Stats. 1889, 205, ch. CLXXII.)

The above-mentioned statute, as also the statute 1875-6, 287, relating to **Sea-gulls**, and statute 1897, 37, relating to **Antwerp**, or **Homing Pigeons**, are now carried into

the Penal Code by statute 1905, 687, ch. DXXIV.

See **KERR'S CYC. PENAL CODE**, §§ 598a, 599.

B'NAI BRITH.

See **Corporations—Note.**

BONDS—REQUIRED BY LAW.

To facilitate the giving of bonds required by law.

(Stats. 1885, 114, ch. CXXXI.)

This is apparently superseded by §§ 1056, 1057, Code Civ. Proc., and § 955, subd. 4, Pol. Code. And see **Libel and Slander**, post.

For construction of original statute, see **Cramer vs. Tittle**, 72 Cal. 12, 13, 12 Pac. Rep. 869; **Fox vs. Hale & Norcross S. M. Co.**, 97

Cal. 353, 355, 32 Pac. Rep. 446. And see **KERR'S CYC. CODE CIV. PROC.**, §§ 1056, 1057; **KERR'S CYC. POL. CODE**, § 955.

Bonds of guardians, trustees, receivers, etc.—See next following statute.

Bonds—County.—See **County Bonds**, post.

BONDS—COUNTY AND STATE OFFICIALS.

To provide for the payment by the state, or counties, or cities, or cities and counties, of the premium or charge on official bonds when given by surety companies.

(Stats. 1903, 476, ch. CCCLIX.)

§ 1. The premium or charge for bonds given by surety companies for state officials, county officials, city officials, or city and county officials, shall be paid by the state, county, city, or city and county respectively; provided, however, that no premium or charge shall exceed one half of one per centum per annum on the amount of such bond; and provided further, that this act shall not apply to notaries public.

§ 2. This act shall take effect from and after its passage.

City of Oakland vs. Snow, 145 Cal. 419, 427, 78 Pac. Rep. 1060.

Bonds of guardians, trustees, receivers, etc., cost of.—See next succeeding statute.

Libel and Slander.—See post.

BONDS—GUARDIANS—TRUSTEES, ETC.

Making the cost of certain bonds of receivers, assignees, trustees, guardians, administrators and executors chargeable to a certain extent against the trust estate.

(Stats. 1905, 477, ch. CCCLXXVII.)

§ 1. Any receiver, assignee, trustee, guardian, administrator or executor required by law or by the order of court to give a bond as such, shall be allowed as part of the lawful expense of executing his trust, the sum paid for such bond, not exceeding, however, one half ($\frac{1}{2}$) of one (1) per centum of the amount of such bond, for each year that the same shall remain in force.

BOOMS—FRANCHISES FOR.

To authorize boards of supervisors of the several counties in this state to grant franchises and privileges to corporations, associations or individuals.

(Stats. 1881, 24, ch. XXXIV.)

§ 1. The board of supervisors of any of the counties of this state are hereby authorized and empowered to grant the privilege of constructing booms for the purpose of holding logs and timber to companies, corporations, or indi-

viduals, and to prescribe the conditions on which the same shall be maintained, and the prices which may be charged for the use of the same.

§ 2. This act will be in force from and after its passage, provided that navigation shall not be interfered with thereby.

There may be serious question as to the validity of the foregoing act, or as to whether it has been superseded. It is broad enough in its terms to admit of franchises where "tolls" are not taken, while subd. 35, § 25, County Government Act of 1897, relates

to franchises where tolls are to be charged; but the peculiar feature of this act is in § 2, which provides that it will be in force from and after its passage, "provided that navigation shall not be interfered with thereby."

BOUNTIES—COYOTE SCALPS.

See **State of California—Actions Against.**

BRIDGES.

To provide for bridges across navigable streams, and across estuaries, ponds, swamps, or arms of bays that may be outside of the line of navigable waters.

(Stats. 1881, 78, ch. LXVIII.)

§ 1. The power to erect bridges on public highways across navigable streams in this state, or to grant franchises to individuals, or corporations for the same, is hereby granted to the boards of supervisors of the several counties of the state, under the restrictions of this act.

§ 2. The power to grant franchises to individuals or corporations to construct bridges, and the regulation of tolls thereon, shall be exercised by the county on the left bank of all streams.

§ 3. Where a navigable stream is the boundary line between the counties the boards of supervisors of such counties may join in the construction of a bridge, upon such terms as may be agreed upon; provided, however, that in case of a failure to agree, either county may build the bridge and maintain control thereof.

§ 4. Whenever the supervisors of any county or counties desire to erect a bridge on any public highway, or to grant the privilege so to do to any individual or corporation, across a navigable stream, under the provisions of this act, said board or boards shall notify the state engineer of such purpose, and of the precise point where such bridge is proposed to be located. The state engineer shall, within ten days of the receipt of such notice, designate the width of the draw to be made in such bridge, and also the length of the spans necessary to permit the free flow of water.

§ 5. The communication from the state engineer, fixing the draw and spans, shall be spread upon the minutes of the board, and any bridge constructed at that point shall be in conformity therewith; provided, however, that the state engineer may, upon hearing before him, had upon the application of any person or body interested, made within ten days after the receipt by said board of supervisors of said communication of said engineer, change his first plans, in which case the modified plans must be so spread upon the minutes, and shall stand in the place of the original; provided, however, that before such hearing is had, the said engineer must give ten days' notice by publication in some

newspaper published in the county or counties from which the application came, of the time and place of the hearing.

§ 6. In case of the absence or inability of the state engineer to act, the duties devolving upon him under this act shall be performed by the state surveyor-general.

§ 7. When a bridge shall be built on a navigable stream by one county, or two counties, it may be absolutely free, or tolls sufficient to pay in whole, or in part, for the construction, and to keep up the repairs and expenses thereof, may be charged; the rate to be fixed by the board of supervisors of the county in which the same is located, or, if located in two counties, then by the boards of supervisors of the two counties; or if there be any disagreement between said boards, as to imposing or removing tolls, or the rate, the matter in dispute shall be referred to the board of supervisors of some neighboring county for determination, and its decision, communicated in writing to the clerks of the said boards respectively, shall be final; and if tolls are fixed or removed thereby, the same shall take effect on the tenth day from the date of such written determination.

§ 8. The board of supervisors, or other governing body of any city and county, or county, in this state, shall have power to declare that it is necessary for the public convenience to have a bridge or bridges built across any estuary, swamp, pond, or arm of a bay that may lie or extend into the county, or city and county, and prescribe the points between which said bridge or bridges shall be built, and when they shall have specified the points between which it is, in their judgment, necessary to build the said bridge or bridges, they may let contracts to build the bridges, as aforesaid, and pay for the same out of the general fund of the city and county, or county.

§ 9. This act shall take effect immediately.

Assuming that the foregoing act is in force, it is subject to conditions contained in subd. 4, § 25, County Government Act of 1897. And see **KERR'S CYC. POL. CODE**, §§ 2618, 2643. *Chico Bridge Co. vs. Sacramento Transp. Co.*, 123 Cal. 178, 181, 55 Pac.

Rep. 780; *Sacramento County vs. Southern Pac. Co.*, 127 Cal. 217, 218, 59 Pac. Rep. 568, 825; *Croley vs. California Pac. R. (Pol. Code, § 2713)*, 134 Cal. 557, 66 Pac. Rep. 860.

See next following statute, as to the repair or reconstruction of such bridges.

BRIDGES—NAVIGABLE STREAMS.

Concerning bridges across navigable streams.

(Stats. 1897, 21, ch. XXV.)

§ 1. The board of supervisors of any county in this state now controlling or maintaining, by virtue of any statute, any bridge across any navigable stream wholly or in part within the boundary lines of any municipal corporation, is hereby authorized and empowered, whenever it may become necessary, in the interest of commerce or by reason of any such bridge being out of repair, to reconstruct and rebuild any part of such bridge, or replace said bridge by a new structure, or with the consent of the governing bodies of such municipalities change the location of such bridge to such place on such stream as may be better suited to its use, or to the use of such navigable stream; and the board of supervisors of any county is hereby authorized to abandon any such existing bridge and rebuild a new bridge at such changed location, and the board of

supervisors of any such county so rebuilding and reconstructing said bridge may enter into an agreement with any person or corporation, now maintaining any bridge across any such navigable stream, for the building of a joint bridge for the purpose of preventing the impeding of commerce on such navigable streams, and of apportioning the expense between said county and said person or any corporation, in such manner as may be agreed upon between said county and said person, or corporation.

§ 2. The expense of said reconstruction, or the building of a new bridge, to be payable out of the same fund as is now provided by law for the maintenance and repair of any such bridge; provided, that in case said county should make such agreement with said person or corporation for the building of any joint bridge, that only the county's portion of said joint bridge, as may be settled by said agreement, shall be paid from the said funds; and, provided, that in no event shall the county pay more than one half the cost of construction, repair or reconstruction of any such joint bridge.

§ 3. All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. This act shall take effect from and after its passage.

See last preceding statute and note.

BUILDING AND LOAN COMMISSIONERS.

Creating a bureau of building and loan supervision; providing for the appointment of administration officials therefor to be known as the building and loan commissioners; prescribing their duties, powers and compensation; providing for a secretary, his powers and compensation; providing for the rental of offices for the use of the bureau and for traveling and office expenses; providing a system for licensing building and loan and other associations, and for assessing and collecting the license fees necessary to meet the salaries and other expenses; providing a course of procedure where violations of law, or unsafe practices are found to exist, or are reported by the commissioners to the attorney-general; providing for involuntary liquidation by trustees, and proceedings in connection therewith; providing for exemption of property of associations in liquidation from attachments, executions and liens, pending liquidation; providing for and requiring associations to procure licenses, pay assessments levied for pro rata of salaries and expenses, and to make and file reports; providing penalties for violations of law and orders of the commissioners; providing for succession in office, and repealing all acts and parts of acts in conflict herewith.

(Stats. 1905, 659, ch. DIV.)

§ 1. There is hereby created a bureau, to be known and designated as the "bureau of building and loan supervision," with powers of supervision, examination and license of all building and loan associations, mutual loan associations, co-operative home associations, and all other corporations, associations and societies, whenever, wherever and however formed, which, in the judgment of the administration of said bureau, are based, or are operating on plans or methods similar to building and loan associations as defined in section six hundred and forty-eight of the Civil Code; it is also charged with the en-

forcement of all laws designed for the formation, government or operation, in this state, of any such association, corporation or society.

§ 2. The administration of said bureau shall be vested in two commissioners, to be known and designated as the "building and loan commissioners," who shall be appointed by the governor (except as herein provided) and commissioned to hold office for the term of four years and until their successors shall be appointed and have qualified. They must be citizens of this state and residents of different counties; and they must not be in any way connected with any association, corporation or society coming under their supervision. They shall be authorized and empowered to appoint a secretary, with powers of examination the same as their own, who must be a practical, skilled accountant, fully conversant with building and loan accounts.

§ 3. The commissioners shall each receive a salary of twenty-four hundred dollars per annum, and their secretary shall receive a salary of not exceeding eighteen hundred dollars per annum. There shall also be allowed and paid the necessary traveling expenses of the commissioners and their secretary, not to exceed the sum of eight hundred dollars per annum. The commissioners shall procure and have an office in the city of San Francisco, for which there shall be allowed and paid a rental of not exceeding fifty dollars per month, and such office shall be kept open for business, every business day, during such hours as are commonly observed by the banks of that city as banking hours; they may also provide such fuel, stationery, printing, postage, office help and other necessary conveniences as may be requisite in such office, at a cost not to exceed, in the aggregate, the sum of five hundred dollars per annum. All said salaries and expenses shall be audited and paid in the same manner as the salaries and expenses of other state officers.

§ 4. Before entering upon their respective duties the commissioners must each execute an official bond in the sum of five thousand dollars and the secretary a like bond in the sum of two thousand dollars, and each must take the oath of office as prescribed by the Political Code for state officers in general.

§ 5. It shall be the duty of the commissioners to furnish to all associations, corporations or societies, which, in their judgment, legally come under their jurisdiction, and that have otherwise complied with the requirements of law, a license authorizing them to transact business for one year from the date of said license; to receive and place on file in their office the annual or other reports required by law to be made by building and loan associations or other corporations or societies licensed by them; to supply each with blank forms for such statements; and to make, on or before the first day of October in each year, a tabulated report to the governor of this state, showing the condition of all such associations, corporations or societies reporting to them, with such recommendation as they may deem proper, accompanied by a detailed statement of all moneys received by them since their last report, and the disposition thereof.

§ 6. It shall be the duty of one or both of the commissioners, in person, at least once in each year, without previous notice, to visit and examine into the affairs of every such association, corporation or society licensed by them, incorporated or doing business in this state; on such occasions they shall have free

access to all the books, records, securities and papers of every such association, corporation or society and shall first count the cash and check the bank balance of such corporation or association with the proper amount of funds as shown by the books to be on hand and at the date and hour of such examination, and shall then examine and verify the books, accounts, and securities, and, so far as possible and consistent, the values of all property owned or held as collateral security for moneys loaned, and otherwise use reasonable diligence to ascertain the financial condition and solvency thereof. They and their secretary shall have power to administer oaths in the line of duty, and to examine under oath the officers, employees and agents, or the custodian or receiver, relative to any or all the business thereof. The commissioners or their secretary or representative shall receive for any examination into the books and affairs of any such association, corporation or society formed outside of the state of California and applying for a license to do business in this state, their reasonable expenses, which shall be paid by the association, corporation or society so examined; provided, that they may accept the result of any such examination made by the duly constituted authorities of any state having similar laws of supervision.

§ 7. To facilitate the examinations specified in the foregoing section, they shall require every such association, corporation or society to keep its books in such form as to accurately show its assets and liabilities in detail and to keep records written in ink, showing the appraised and assessed values of the real estate security held in connection with each loan, and signed in each case by the appraiser, officer or committee charged with making such estimated valuations. The commissioners shall make a revaluation of the real estate owned, and of the other securities of any such association, corporation or society licensed by them, on which the loan payments may be delinquent for six months or more, and may, for that purpose, appoint local appraisers, who shall be disinterested persons, at the expense of such association, corporation or society; the expense of such appraisal to be fixed by the commissioners, but not to exceed the sum of five dollars for property located outside of any incorporated limits and three dollars for property located inside of any incorporated limits for each property so examined and appraised. Each appraiser so appointed shall be required to make a sworn report to the commissioners of his estimated valuations of all property so examined and appraised.

§ 8. The commissioners shall have power to issue subpoenas and require attendance of any or all trustees, or agents of any such association, corporation or society, and such other witnesses as they may deem necessary, in relation to its affairs, transactions and condition, and any such person so served with such subpoena may upon application of the commissioner be required by order of the superior court of the county where the corporation, association or society has its principal place of business, to appear and answer such pertinent questions as may be put to him by such commissioner and be required to produce such books, papers or documents in his possession as may be required by such commissioner.

§ 9. If the commissioners, upon any examination, or from any report made to them or to the shareholders, shall find that any association, corporation or

society licensed by them, is violating the provisions of its charter or of the laws of this state provided for its government, or is conducting its business in an unsafe or unauthorized manner, they may, by an order addressed to the association, corporation or society so offending, direct a discontinuance of such violations or unsafe practices and a conformity with all the requirements of law; and if such association, corporation or society shall refuse or neglect to comply with such order within the time specified therein; or if it shall appear to the commissioners, in their opinion, that any such association, corporation or society is in an unsafe condition, or is conducting its business in an unsafe manner, such as to render its further proceeding hazardous to the public or to those having funds in its custody, they shall notify the attorney-general of such facts and furnish him with a statement showing its condition, as the same may have been found to exist; at the same time they shall notify the officers of such association, corporation or society of the fact of such report having been made and direct them to cease the transaction of any new business, and to hold all moneys, securities and property intact, pending the action of the attorney-general on such report. The attorney-general shall thereupon apply to the superior court, of the county in which such association, corporation or society has its principal place of business, to issue an injunction restraining it, in whole or in part, from further proceeding with its business until a hearing can be had. Such court may, in such application, issue such injunction, and after a full hearing, may dissolve or modify it, or make it perpetual, and may make such orders and decrees according to the course of proceedings in equity, to restrain or prohibit the further prosecution of business by such association, corporation or society, as may be needful in the premises; and may appoint one or more receivers to take possession of its property and effects, subject to such directions as may from time to time be prescribed by the court; or it may, by its decree, order and direct that, in lieu of the appointment of a receiver, the business and affairs be liquidated by a board of trustees equal in number to the board of directors, to be elected by the shareholders, at a meeting thereof, to be called for such purpose and held within two weeks from and after the first Monday succeeding the date of such order and decree; such meeting to be called and held on the order of the commissioners, one of whom shall be present and preside until such election shall be had; whereupon he shall report the result to the proper court, and thereupon the term of office of the existing board of directors and of all the officers shall cease and determine. Such board of trustees, when so elected, shall at once assume office and have possession and control of all the property and assets for the purpose of liquidation; and such liquidation shall be conducted by such board under the supervision of the commissioners, who shall have full power to limit the time within which it shall be accomplished, and to limit the number of employees and the salaries and expenses that shall be allowed and paid. The issuance of an injunction, in the manner herein provided, shall operate to dissolve or stay any and all attachments or executions initiated or levied within thirty days next preceding the date of notification of the attorney-general by the commissioners; and, pending the process of liquidation as ordered by the court, no attachment or execution shall be levied, nor lien created, upon any of the property of such association, corporation or society.

§ 10. Whenever a receiver or receivers are appointed, or trustees elected in lieu thereof, the commissioners shall require the president and secretary of such association, corporation or society to, and such officers shall, make a schedule of all its property and make oath that such schedule sets forth all the property which such association, corporation or society owns or is entitled to, and deliver said schedule and possession of the property to the receivers or to the trustees, and a copy of such schedule to the commissioners, who may at any time examine under oath such president and secretary, or other officers, to determine whether or not all the property which such association, corporation or society owns, or is entitled to, has been transferred to such receivers or trustees.

§ 11. The commissioners shall, at least once in each year and as much oftener as they may deem expedient, examine the accounts and doings of receivers or trustees, and shall carefully examine and report on all accounts and reports made to the proper court, and, for the purposes of this section, shall have full and free access to all the books, accounts and vouchers relating to any such liquidation.

§ 12. Upon the certificate, under oath, of any ten or more officers, trustees, creditors, shareholders or depositors of any such association, corporation or society, setting forth their interest and the reason for the making of such examination, directed to the commissioners, and requesting them so to do, they shall forthwith make a full investigation of its affairs, in the manner provided.

§ 13. If either of the commissioners, having knowledge of the insolvent condition, or of any violation of law or unsafe practice of any such association, corporation or society under their supervision, such as renders, in their opinion, the conduct of its business hazardous to its shareholders, creditors or depositors, shall fail to take the proper action required by this act, or shall refuse or neglect to perform the official duties pertaining to his office, then upon conviction thereof the office of such commissioner shall be declared vacant by the governor, and a successor be appointed to fill the unexpired term.

§ 14. To meet the salaries and expenses provided for by this act, the commissioners shall require every association, corporation or society licensed by them or coming under their supervision to pay in advance, to them, and prior to the issuance of any license, its pro rata amount of all such salaries and expenses, and it is hereby made the duty of every such association, corporation or society to pay the same; such pro rata shall be fixed and determined by the proportion which its assets bear to the aggregate assets of all such associations, corporations, or societies, receiving licenses, as shown by the last reports of such corporations, associations, or societies to the commissioners. On or before the thirtieth day of December, in each year, the commissioners shall notify each of such associations, corporations or societies, through the United States mail, of the amount assessed and levied against it and that the same must be paid within twenty days thereafter; and should payment not be made to them within said twenty days, they shall then assess and collect a penalty, in addition thereto, of ten per centum per day for each day that such payment may be delayed or withheld; provided, however, that in the levy and collection of such assessment, no such association, corporation or society shall be assessed for, nor be permitted to pay less than ten dollars per annum, and any such associa-

tion hereafter formed in this state, shall be required to pay not less than one dollar per month for the unexpired term ending December thirty-first, succeeding application; and in like manner any such association organized outside this state shall be required to pay not less than three dollars per month, for such unexpired term, for its first license.

§ 15. It shall be the duty of the commissioners to require every such association, corporation or society coming under their supervision, to procure from them, prior to the transaction of any business, a certificate of authority or license to transact business in this state; and it is hereby made the duty of every such association, corporation or society to comply with such requirement. To procure such license, there must be filed with and approved by the commissioners, a certified copy of its articles of incorporation, constitution and by-laws and all subsequent amendments thereto, accompanied by the license fee herein provided for; and after the expiration of the term for which a license may have been granted to it, no such association, corporation or society shall be permitted to continue to transact business without first procuring a renewal of such license on the terms provided in this act, and any such association, corporation or society violating the provisions hereof shall be subject to a penalty of ten per centum per day of the amount of the license fee required to be paid under section fifteen of this act, in addition thereto, for each day during the continuance of such offense. The commissioners are authorized and empowered to revoke the license of any such association, corporation or society under their supervision, the solvency whereof may have become imperiled by losses or irregularities; and immediately upon the revoking of any such license they shall report the facts to the attorney-general, who shall thereupon take such proceedings as are provided in section nine of this act.

§ 16. The commissioners shall require every association, corporation or society licensed by them, and including associations in liquidation, within thirty days after the close of its annual fiscal term to make a report to them in writing, verified by the oath of its president and secretary, showing accurately its financial condition at the close of such term; such report shall also include all the receipts and disbursements and income and expenses for the term, together with such statistical and other information as may be deemed essential; all and every of such reports shall be in such form as the commissioners may prescribe, and upon blanks to be by them furnished therefor. Every such association, corporation or society is hereby required to make and file all such reports within the time specified herein, and for failure or neglect so to do shall be subject to a penalty of ten dollars per day for each and every day the same shall be delayed or withheld.

§ 17. The collection of all moneys assessed, as herein provided, for the payment of salaries and annual expenses, or forfeitable as fines for failure to make payments of assessments, procure licenses, or make and file reports as herein specified, and due from any such association, corporation or society coming within the provisions of this act, or imposed as a penalty for violation of any order or summons, may be enforced by the commissioners, by action instituted in any court of competent jurisdiction; and all moneys collected or received by the commissioners under this act, shall be deposited with the state treasurer,

to be credited to a fund to be known and designated as the "building and loan inspection fund"; which said fund shall only be used in defraying the salaries and expenses provided for by this act.

§ 18. This act shall not be construed as affecting the terms of office of the commissioners appointed under and by virtue of an act entitled "An act creating a board of commissioners of the building and loan associations and prescribing their duties and powers," approved March twenty-third, eighteen hundred and ninety-three, and acts amendatory thereof, and such commissioners are hereby created the building and loan commissioners for the unexpired terms for which they were appointed, and they and their secretary are hereby vested with all the powers and duties, and are entitled to all the emoluments herein provided for; and they and their successors in office, as the building and loan commissioners herein provided for, shall succeed to all the rights, privileges and benefits, and to the control and possession of all records, property and funds in the possession of or enjoyed by the board of commissioners of the building and loan associations appointed under and by virtue of said act of March twenty-third, eighteen hundred and ninety-three.

§ 19. All acts and parts of acts, including an act entitled "An act creating a board of commissioners of the building and loan associations and prescribing their duties and powers," approved March twenty-third, eighteen hundred and ninety-three, and all acts amendatory thereof, are hereby repealed.

§ 20. This act shall take effect and be in force from and after its passage.

Repealed.—Stats. 1893, 231; 1895, 103.

STATUTES CONSTRUED—Stats. 1893, 231. —§ 9, People vs. Union B. & L. Assoc., 127 Cal. 400, 405, 59 Pac. Rep. 692; § 9, Bories vs. Union B. & L. Assoc., 141 Cal. 74, 75-78, 74 Pac. Rep. 552; § 19, Provident etc. Assoc. vs. Davis, 143 Cal. 253, 258, 76 Pac. Rep. 1034.

Same—Stats. 1895, 103. —§ 9, Bories vs. Union B. & L. Assoc., 141 Cal. 74, 75-78, 74 Pac. Rep. 552.

Regulating right to do business.—See brief in 58 L. R. A. 818.

Retroactive statutes relating to.—See 42 L. R. A. 783.

BUOYS AND BEACONS.

(Stats. 1873-4, 619, ch. CCCCXLII.)

§ 1. Any person or persons who shall moor any vessel or boat of any kind, or any raft or scow, to any buoy or beacon placed in the waters of California by authority of the United States lighthouse board, or shall in any manner hang on to the same, with any vessel, boat, raft, or scow, or shall wilfully remove, damage, or destroy any such buoy or beacon, or any part of the same, or shall cut down, remove, damage, or destroy any beacon or beacons erected on land in this state by the authority aforesaid, shall, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months; one third of the fine in such case to be paid to the informer, and two thirds thereof to the lighthouse board, to be used in repairing said buoys and beacons.

§ 2. The cost of repairing or replacing any such buoy or beacon which may have been misplaced, damaged, or destroyed by any vessel, boat, raft, or scow being made fast to the same, shall, when said cost shall have been legally ascertained, be a lien upon such vessel, boat, raft, or scow, and recovered against

the same, and the owner or owners thereof, in an action of debt, in any court of competent jurisdiction in this state.

Penal Code, § 609, was amended by Stats. 1905, 689, ch. DXXVII, but it does not supersede the foregoing statute, especially the provisions of § 2.

See **KERR'S CYC. PEN. CODE**, §§ 609, 614.

BURIAL AND DISINTERMENT PERMITS.

For the registration of deaths, the issuance and registration of burial and disinterment permits and the establishment of registration districts in counties, cities and counties, cities and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and fixing penalties for the violation of this act.

(Stats. 1905, 115, ch. CXIX.)

§ 1. That department of the state board of health known as the state bureau of vital statistics shall provide for and superintend the complete and proper registration of deaths for legal, sanitary and statistical purposes.

§ 2. That for the purposes of this act the state shall be divided into registration districts as follows: Each city and county, city, and incorporated town, and each county exclusive of the portion included within cities and incorporated towns, shall constitute a primary registration district.

§ 3. That the recorder of each city and county, county, and the clerk of each city or incorporated town, shall be the local registrar in and for such primary registration district and shall perform all such duties of local registrar as hereinafter provided; provided however, that in cities having a freeholders charter the health officer shall act as local registrar and perform all the duties thereof. Each local registrar shall immediately appoint in writing, a deputy who shall be authorized to act in his stead in case of absence, death, illness or disability and when it may appear necessary for the convenience of the people in any county, the local registrar is hereby authorized with the approval of the state registrar of vital statistics to appoint one or more proper and competent persons to act as sub-registrars, who shall be authorized to receive certificates of death and to issue burial permits or removal permits in and for such portions of the county as may be designated. Each sub-registrar shall note in legible writing over his signature the date each certificate of death was filed, and shall forthwith forward the certificate to the local registrar of the county, and in all cases before the eighth day of the following month; provided, that all sub-registrars shall be subject to the supervision and control of the state registrar of vital statistics.

§ 4. That the body or remains of no person whose death occurs in the state shall be interred, deposited in a vault, grave or tomb, cremated, disinterred or otherwise disposed of, or removed from or into any registration district until a permit for burial, disinterment or removal shall have been properly issued by the registrar of the registration district in which the death occurs. And no such burial or removal permit shall be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him, as

hereinafter required; provided that in case of any death outside of the state, where the body is accompanied by a removal or transit permit issued in accordance with the law and the health regulations in force where the death occurred, such removal or transit permit shall be accepted as of the same authority as a permit from the local registrar when such removal or transit permit shall have indorsed thereon the written approval of the state registrar of vital statistics, or when said state registrar otherwise officially notifies the local registrar of his approval.

§ 5. Still-born children, or those dead at birth, shall be registered as deaths under this act, and a certificate of death and burial or removal permit in usual form shall be required. The medical certificate of cause of death shall be signed by the attending physician or midwife, and shall state the cause of death as "still-born," with the cause of the still-birth, if known, whether a premature birth, and, if born prematurely, the period of utero-gestation in months, if known.

§ 6. That the certificate of death shall be of the standard form recommended by the United States census office and the American Public Health Association, and shall contain the following items:

(1) Place of death, including state, county, township or town, city or village. If in a city, the ward, street, and house number. If in a hospital or other institution, the name of the same to be given instead of the street and house number.

(2) Full name of decedent. If an unnamed child the surname, preceded by "unnamed."

(3) Sex.

(4) Color or race—as white, black (negro or negro descent), Indian, Chinese, Japanese, or other.

(5) Conjugal condition—as single, married, widowed, or divorced.

(6) Date of birth, including the year, month, and day.

(7) Age, in years, months, and days.

(8) Place of birth; state or foreign country.

(9) Name of father.

(10) Birthplace of father; state or foreign country.

(11) Maiden name of mother.

(12) Birthplace of mother; state or foreign country.

(13) Occupation; the occupation to be reported of any person who had any remunerative employment—women as well as men.

(14) Signature and address of informant.

(15) Date of death, including the year, month, and day.

(16) Statement of medical attendance on decedent, fact and time of death, including the time last seen alive.

(17) Cause of death, including the primary and immediate causes, and contributory causes or complications, if any, and the duration of each.

(18) Signature and address of physician or official making the medical certificate.

(19) Special information concerning deaths in hospitals and institutions and of persons dying away from home, including the former or usual residence, length of time at place of death, and place where the disease was contracted.

(20) Place of burial or removal.

(21) Date of burial or removal.

(22) Signature and address of undertaker.

(23) Official signature of registrar with date when certificate was filed and registered number.

The certificate shall be written legibly in permanent black ink, typewritten or printed, and no certificate shall be held to be complete and correct that does not supply all of the items of information specified above or satisfactorily account for the omission of any of said items.

The personal and statistical particulars (items 1 to 13) or such other items as shall be required by the state registrar shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts.

The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred. He shall further state the cause of death so as to show the course of disease or sequence of causes resulting in death, giving the primary and immediate causes, and contributing causes, if any, and the duration of each. Indefinite and unsatisfactory terms indicating only symptoms of diseases or conditions resulting from disease will not be held sufficient for issuing a burial or removal permit, and any certificate containing only such terms, as defined by the state registrar, shall be returned to the physician for correction or definition. Causes of death which may be the result of either disease or violence shall be carefully defined; and, if from violence, its nature shall be stated, and whether accidental, suicidal or homicidal. For cause of deaths in hospitals, institutions, or away from home, the physician shall furnish the information required under this head, and shall state where, in his opinion, the disease was contracted. The cause of death and all other facts required shall in all cases be stated in accordance with the instructions and directions of the state registrar.

§ 7. In case of any death occurring without medical attendance, it shall be the duty of the undertaker to notify the registrar of such death, and when so notified the registrar shall refer the case to the coroner for his investigation and certification, and the coroner shall within three days after the inquest furnish the local registrar where such death occurs a certificate in form and substance as required by the state registrar and containing as many of the facts required by this act as can be ascertained. Said local registrar shall then forthwith transmit such certificate to the state registrar, retaining a copy thereof on file in his office.

§ 8. The undertaker, or person acting as undertaker, shall be responsible for obtaining and filing the certificate of death with the registrar and securing a burial or removal permit prior to any disposition of the body. He shall obtain the personal and statistical particulars required from the person best qualified to supply them over the signature and address of his informant. He shall then present the certificate to the attending physician, if any, or to the health officer or coroner, as directed by the registrar, for the medical certifi-

cate of the cause of death and other particulars necessary to complete the record, as specified in the preceding section. And he shall then state the facts required relative to the date and place of burial over his signature and with his address, and present the completed certificate to the registrar within the time limit, if any, designated by the local board of health for the issuance of a burial or removal permit. The undertaker shall deliver the burial permit to the sexton or person in charge of the premises before interring the body, or attach it to the box containing the corpse, when shipped by any transportation company, to accompany same to destination, when it shall be accepted by the sexton as authority for the interment of the body.

§ 9. It shall be the duty of the local registrar to supply blank forms of certificates to such persons as require them. He shall carefully examine each certificate when presented for record to see that it has been made out in accordance with the provisions of this act and the instructions of the state registrar, and if any certificate is incomplete or unsatisfactory it shall be his duty to call attention to the defects in the return and to withhold issuing the burial or removal permit until they are corrected. He shall then number them in consecutive order, beginning with number one for the first death in each calendar year, and sign his name as registrar in attest of the date of filing in his office. If the certificate is properly executed and complete, he shall then issue a burial or removal permit to the undertaker; provided, that in case the death occurred from some disease that is held by the state board of health to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under such conditions as may be prescribed by the state and local boards of health. He shall also make a complete and accurate copy of each certificate registered by him, upon a form identical with the original certificate, to be filed and permanently preserved in his office as the local record of such death, in such manner as directed by the state registrar. He shall, on or before the eighth day of each month, transmit to the state registrar all original certificates registered by him during the preceding month. If no deaths occurred in any month he shall, on or before the eighth day of the following month, report that fact to the state registrar in such manner as the state registrar shall direct.

§ 10. If the interment, or other disposition of the body is to be made in the registration district in which the death occurred, the wording of the burial permit may be limited to a statement by the registrar, and over his signature, that a satisfactory certificate of death having been filed with him as required by law, permission is granted to inter, remove, or otherwise dispose of the body of the deceased, stating the name, age, sex and cause of death and other necessary details upon the form prescribed by the state registrar. In case the interment, or other disposition of the body, is to be made in some registration district other than that in which the death occurred, a complete copy of the certificate of death shall be attached to and made a part of the permit.

§ 11. No sexton or person in charge of any premises in which interments are made shall inter or permit the interment of any body unless it is accompanied by a burial, removal, or transit permit as herein provided. Each sexton

for person in charge of any burial ground shall indorse upon the permit the date of interment, over his signature, and shall return all permits, so indorsed, to the local registrar of his district within one day from the date of interment. He shall also keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial, and name and address of the undertaker, which record shall at all times be open to public inspection.

§ 12. The state registrar shall prepare a sample form and blank for all registrars for use in registering, recording and preserving the returns or in otherwise carrying out the purposes of this act, and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other forms of blanks shall be used than those prescribed by the state registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be furnished as may be necessary to make the record satisfactory. All physicians, informants, or undertakers connected with the case, and all other persons having knowledge of the facts, are hereby required to furnish such information as they may possess regarding any death, upon demand of the state registrar, in person, by mail, or through the local registrar. He shall further arrange, bind and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive index of all deaths registered, showing the name of deceased, place and date of death, number of certificate, and the volume in which it is contained. He shall inform all registrars what diseases are to be considered as infectious, contagious, or communicable, and dangerous to the public health, as decided by the state board of health, in order that when deaths occur from such diseases proper precautions may be taken to prevent the spreading of dangerous diseases, and all rules and regulations made by him for carrying out and enforcing the purposes of this act shall, when promulgated, have the same force and effect as if enacted by law.

§ 13. Whenever it may be alleged that the facts are not correctly stated in any certificate of death theretofore registered, the local registrar shall require a deposition under oath to be made by the person asserting the fact, to be supported by the depositions of two or more credible persons having knowledge of the facts, setting forth the changes necessary to make the record correct. Having received such depositions, he shall file them and shall then draw a line through the incorrect statement or statements in the certificate, without erasing them, and make the necessary corrections, noting on the margin of the certificate his authority for so doing, and transmit the deposition, attached to the original certificate, when making his regular monthly returns to the state registrar. If the correction relates to a certificate previously returned to the state registrar, he shall transmit the deposition forthwith to the state registrar. If the correction is first made upon the original certificate on file in the state bureau of vital statistics, the state registrar shall transmit a certified copy of the original certificate, corrected as above, to the local registrar, who shall thereupon substitute such certified copy for the copy of the certificate in his

records. All such corrections and marginal notes referring to them shall be legibly written in ink, typewritten or printed.

§ 14. Each local registrar shall be entitled to be paid the sum of not exceeding twenty-five cents for each death certificate properly and completely made out and registered with him, and by him returned to the state registrar on or before the eighth day of the following month, which sum shall cover and include the making out of the burial permit and the copy of the certificate to be filed and preserved in his office. And in case no deaths were registered during any month, the local registrar shall be entitled to a sum not exceeding twenty-five cents for each report to that effect, promptly made in accordance with the directions of the state registrar; provided, however, that all such compensation for such services shall be fixed by the board of supervisors, city council, or other governing body of such local registration district.

All amounts payable to registrars under the provisions of this act shall be paid by the treasurer or other lawful officer, out of the funds of each registration district, upon warrants drawn by the local auditor or other proper local officer of such district, which warrants shall specify the number of certificates properly registered and reports promptly returned where no deaths are registered, with the amount due for each: provided, however, that no warrant shall be issued to any local registrar, or, if issued, shall be paid where notice is previously given by the state registrar to the auditor, treasurer or other proper officer of such registration district that the local registrar has failed to comply with the rules and regulations of the state bureau of vital statistics and the instructions of the state registrar.

§ 15. The state registrar shall, upon receipt, furnish any applicant a certified copy of the record of any death registered under provisions of this act, for the making and certification of which he shall be entitled to a fee of fifty cents, to be paid by the applicant. And any such copy of the record of a death, when properly certified by the state registrar to be a true copy thereof, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files and records, when no certified copy is made, the state registrar shall be entitled to a fee of fifty cents for each hour or fractional hour of time of search to be paid by the applicant. And the state registrar shall keep a true and correct account of all fees by him received under these provisions, and turn the same over to the state treasurer.

§ 16. Every physician and undertaker, residing in, at the date of this act or thereafter establishing a residence in, any registration district, shall forthwith register his or her name, address, and occupation, with the local registrar of the district in which he or she resides, and they shall thereupon be furnished by the registrar a copy of this act and such rules, regulations, and instructions as may be prepared by the state registrar with relation to their duties under this act.

§ 17. If any physician who was in medical attendance upon any deceased person at the time of death shall neglect or refuse to make out and deliver to the undertaker, sexton, or other person in charge of the interment, removal, or other disposition of the body, upon request, the medical certificate of cause of death hereinbefore provided for, or shall wilfully or knowingly make a false

certification of the cause of death in any case, he shall be deemed guilty of a misdemeanor.

If any undertaker, sexton, or other person acting as undertaker shall inter, remove, or otherwise dispose of the body of any deceased person without having received a burial or removal permit as herein provided, he shall be deemed guilty of a misdemeanor.

Any registrar, deputy registrar or sub-registrar who shall neglect or fail to enforce the provisions of this act in his district, or shall neglect or refuse to perform any of the duties imposed upon him by this act or by the instructions and directions of the state registrar, shall be deemed guilty of a misdemeanor.

And any person or persons who shall violate any of the provisions of this act, or shall wilfully neglect or refuse to perform any duties imposed upon them by the provisions of this act, shall be deemed guilty of a misdemeanor.

Any transportation company or common carrier transporting or carrying, or accepting through its agents or employees for transportation or carriage, the body of any deceased person without an accompanying permit, issued in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than two hundred dollars.

§ 18. Local registrars are hereby charged with the strict and thorough enforcement of the provisions of this act in their districts under the supervision and direction of the state registrar. They shall make an immediate report to the state registrar of any violations of this law coming to their notice by observation or upon complaint of any person or otherwise. The state registrar shall have authority to investigate cases of irregularity or violation of law, personally or by accredited representative, and all registrars shall aid him, upon request, in such investigations. When he shall deem it necessary, he shall report cases of violation of any of the provisions of this act to the prosecuting attorney or other proper officer of the county or municipality, with a statement of the facts and circumstances, and when any such case is reported to them by the state registrar all prosecuting attorneys or officials acting in such capacity shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law.

§ 19. All acts and parts of acts in conflict or inconsistent with the provisions of this act are hereby repealed.

See KERR'S CYC. POL. CODE, §§ 3027, and see title herein on **Cemeteries—Disinterment** and note thereunder.
3084, and KERR'S CYC. PEN. CODE, § 290;

BUTTER—WEIGHT OF PACKAGE.

Requiring the marking of packages of butter containing less than six pounds and more than one half pound so as to advise the purchaser or others as to the weight of butter contained in such package.

(Stats. 1905, 316, ch. CCCII.)

§ 1. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, manufacture or prepare for sale, offer for sale or expose for sale, or have in his or their possession for sale, or consign, ship or present to any dealer, commission merchant, consumer, or other person, any

butter in packages containing less than six pounds and more than one half pound, unless the exact weight of such butter contained in such package or packages, rolls, prints or other form of package, expressed in the number of pounds or ounces or in both pounds and ounces, shall be printed or durably and legibly marked upon the wrapper or other container of such butter in letters or figures, or in both letters and figures, not less than one fourth inch high and upon the same side or face of such package upon which the producer's or seller's name and address appears, and if such name and address does not appear, the weight alone shall be legibly and durably placed upon such package in letters or figures not less than one fourth of an inch high.

§ 2. Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than fifty days, or by both such fine and imprisonment at the discretion of the court.

§ 3. It shall be the duty of the state dairy bureau, now existing under the laws of this state, to enforce the provisions of this act and to cause the prosecution of any person known to be guilty, or that it has reason to believe to be guilty, of violating any of the provisions of this act. It shall be the duty of the district attorney of each and every county in this state, upon application from the state dairy bureau, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district. One half of all fines collected for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed. The other one half shall be paid to the state dairy bureau and by said bureau to the state treasurer and the same shall become a part of the appropriation made by law for the use of the state dairy bureau.

§ 4. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 5. This section [act] shall take effect sixty days after its passage.

The foregoing statute is probably intended to supersede or repeal the statute of 1893, next following.

Weights and measures, regulation of.—See 13 L. R. A. 286.

Same—Standard, law in force at place of purchase.—See 118 Fed. Rep. 325, 55 C. C. A. 341.

BUTTER—WEIGHT OF PACKAGE.

To prevent the sale of short-weight rolls of butter.

(Stats. 1893, 151, ch. CXXXVII.)

§ 1. Any person or persons, firm or corporation, who offers for sale roll butter not of full weight to each roll, shall be guilty of a misdemeanor.

§ 2. This act shall go into effect sixty days after its passage.

See last preceding statute.

"Renovated" or "Process" butter.—See next following statute, which repeals the statute of 1899, 25, ch. XXV, on that subject.

Gen. Laws—7

BUTTER—DECEPTION IN.

To prevent deception in the sale of renovated butter and to license manufacturers and dealers in the same.

(Stats. 1905, 468, ch. CCCLXXI.)

§ 1. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, offer for sale or expose for sale or have in his or their possession for sale any renovated butter unless the same shall have printed upon each and every package, roll, print, square, or any container of such renovated butter the words "renovated butter" in letters not less than one half inch in height, or who shall not have secured from the state dairy bureau, now existing under the laws of this state, a license as provided hereinafter.

§ 2. The term renovated butter as used in this act is hereby defined to mean and include butter that has been reduced to a liquid state by melting, and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product thereof.

§ 3. Any person or persons, firms or corporations, desiring to manufacture or deal in renovated butter shall make application to the state dairy bureau for a license and upon payment of a license fee of the amount mentioned herein, to the state dairy bureau, said bureau shall issue to the applicant a license. All such licenses shall expire December thirty-first of each year and may be issued in periods of one year or six months, upon payment of a proportionate part of the license fee. Manufacturers of renovated butter within this state shall pay an annual license fee of one thousand dollars; wholesale dealers shall pay an annual license fee of four hundred dollars; retail dealers shall pay an annual license fee of fifty dollars; hotels, restaurants, boarding houses and all other places where meals are served and payment is received therefor, either immediately or by the day, week or month, and which use or furnish renovated butter in connection with said meals, shall pay an annual license fee of ten dollars. The term wholesale dealers as used herein includes all persons, firms or corporations, who shall sell renovated butter in quantities of ten pounds or more. The term retail dealers includes all persons who sell in quantities of less than ten pounds. All licenses while in force shall be conspicuously displayed in the place of business of the party or parties to whom they have been issued. The state dairy bureau shall require all persons holding a manufacturer's or wholesaler's license, as provided in this act, to keep a record in a form separate from all other business in which every sale of renovated butter shall be recorded, giving the quantity sold, the name and location of the buyer and the place to which it was shipped. Such record shall be accessible at all times to duly authorized representatives of the state dairy bureau.

§ 4. All license fees paid to the state dairy bureau under this act shall be paid by said bureau into the state treasury, the same to be added to the appropriation made for the same fiscal year for the bureau and its expenditure shall be at the disposal of said bureau for its use.

§ 5. Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof,

be punished for the first offense by a fine of not less than twenty dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

§ 6. It shall be the duty of the district attorney of each and every county in this state, upon application, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district. One half of all the fines imposed for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed. The other one half shall be paid to the state dairy bureau, and by said bureau to the state treasurer, and the same shall become a part of the appropriation made by law for the use of said state dairy bureau.

§ 7. An act which became a law under constitutional provision without the governor's approval, February twenty-third, eighteen hundred and ninety-nine, entitled "An act to prevent deception in the sale of process or renovated butter" and all other acts or parts of acts inconsistent with this act are hereby repealed.

§ 8. This act shall take effect thirty days after its passage.

See *tits. Cheese; Dairy Products; State Dairy Bureau.*

IMITATION BUTTER—*Constitutionality of statutes regulating the manufacture and sale of.*—See 35 L. R. A. 844; 57 L. R. A. 181; 118 Fed. Rep. 56, 47 C. C. A. 195.

Same—Original packages from other states.—See 30 L. R. A. 396.

Same—Prohibiting sale of.—See 15 L. R.

A. 889. Unless colored pink.—See 1 L. R. A. 51; 35 L. R. A. 844.

Same—Regulating traffic in.—See notes 1 L. R. A. 52; 6 L. R. A. 533; 11 L. R. A. 532; briefs in 15 L. R. A. 839 and 30 L. R. A. 397. As affecting *interstate commerce*, see briefs in 10 L. R. A. 830; 22 L. R. A. 156; 30 L. R. A. 397.

CALIFORNIA POLYTECHNIC SCHOOL.

To establish the California Polytechnic School in the county of San Luis Obispo, and making an appropriation therefor.

(Stats. 1901, 115, ch. CI.)

§ 1. There is hereby established in the county of San Luis Obispo, at or near the city of San Luis Obispo, a school to be known as the California Polytechnic School. The purpose of this school is to furnish to young people of both sexes mental and manual training in the arts and sciences, including agriculture, mechanics, engineering, business methods, domestic economy, and such other branches as will fit the students for the non-professional walks of life. This act shall be liberally construed, to the end that the school established hereby may at all times contribute to the industrial welfare of the state of California.

§ 2. Within thirty days after this act goes into effect the governor shall appoint five persons, who, with the governor, and superintendent of public instruction, shall constitute the board of trustees of said school.

§ 3. The said trustees, as provided for in section two of this act, are hereby appointed and created trustees of said California Polytechnic School, with full power and authority to select a site for the permanent location of said school.

Said trustees shall, within ninety days after the passage of this act, examine the different sites offered by the people of San Luis Obispo County for the location of said school; and the site selected by them shall be and remain the permanent site for said school. But no money shall be expended for or on said site, until a deed in fee simple has been made for land so selected to the state of California.

§ 4. The term of office of the trustees shall be four years, except that, in appointing the first board of trustees, the governor shall appoint two members for one year, one for two years, one for three years, and one for four years. They shall be governed and regulated by the laws governing and regulating the normal schools of this state, in so far as the same are applicable to an institution of this kind.

§ 5. The sum of fifty thousand dollars is hereby appropriated out of any moneys belonging to the state not otherwise appropriated, for the purchase of a site, the construction and furnishing of the necessary buildings, and the maintenance of said school.

§ 6. The controller of the state is hereby authorized to draw warrants from time to time, as the work shall progress, in favor of said board of trustees, upon their requisition for the same, and the state treasurer is directed to pay the same.

§ 7. The moneys hereby appropriated shall be expended under the direction of the said board of trustees.

§ 8. This act shall take effect and be in force from and after January first, nineteen hundred and two.

CALIFORNIA REDWOOD PARK.

See **Parks—Public.**

CALIFORNIA STATE AGRICULTURAL SOCIETY—APPROPRIATION.

Making an appropriation to the directors of the California State Agricultural Society for the purpose of paying certain indebtedness, claims and demands against said society.

(Stats. 1901, 802, ch. CCXLVI; amended, Stats. 1905, 199, ch. CCX.)

§ 1. The sum of forty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to be by the state of California paid to the board of directors of the California State Agricultural Society for the purpose of paying and discharging the indebtedness, claims, and demands that have accrued against said society.

§ 2. All said claims shall first be approved by the board of directors of said California State Agricultural Society and by the state board of examiners before being paid.

§ 3. No money shall be paid out, pursuant to the terms of this act, until the said board of directors of the California State Agricultural Society shall make, execute and deliver to the state of California a deed conveying all its right, title and interest in and to all real estate owned by said society, or in which it

claims any right, title or interest. Said deed shall embrace all the property owned by the said society at the time of the passage of this act, and said deed shall be deposited with the secretary of state. If before the passage of this act the said California State Agricultural Society shall have made such deed the same shall be considered a compliance with the conditions and terms of this act. [Amendment, Stats. 1905, 199, ch. CCX. The amendatory act also contained the following section: § 2. All acts and parts of acts in conflict with this act are hereby repealed.]

§ 4. The state controller is hereby directed to draw his warrant for the sum herein appropriated, and the state treasurer is hereby directed to pay the same.

§ 5. This act shall take effect and be in force on and after January first, nineteen hundred and two.

CONTRIBUTION TO BY STATE—Public character.—See 29 L. R. A. 703.

CALIFORNIA STATE AGRICULTURAL SOCIETY.

Making an appropriation for the erection and construction of buildings and equipping the fair grounds owned by or under the jurisdiction and control of the California State Agricultural Society, for exposition and state fair purposes and for the payment of other expenses incidental and relating thereto, prohibiting gambling of all kinds upon the grounds and premises under the control of said California State Agricultural Society, and providing a penalty for gambling or gaming thereon, and providing that certain moneys now in the state treasury may be used in connection with this appropriation for such purposes.

(Stats. 1905, 793, ch. DXCV.)

§ 1. The sum of sixty thousand dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated, to be paid to the board of directors of the California State Agricultural Society and to be expended on, in and about the fair grounds owned by or under the jurisdiction and control of the California State Agricultural Society for the purpose of equipping the said fair grounds for exposition and state fair uses for the purposes hereinafter specified: For the construction of a swine exhibit building; the construction of a sheep building; the construction of cattle exhibit barns; the construction of exhibit buildings for mules, horses and ponies; the construction of a poultry building; the construction of a dairy building; the construction of carriage sheds; the construction of a main fence around the grounds; the purchase of decomposed granite for roads; the grading of roads; the grading and filling around barns; the installation of a water system and piping the grounds; the construction of a steel tower and of a barrel tank; the installation of a sewerage system; the construction of an implement exhibit building; painting such structures; necessary fees of architects and superintendents, foremen and workmen and for the payment of all other expenses appurtenant to the carrying out of this act. The state controller is hereby ordered and directed to draw the necessary warrant or warrants therefor, and the state treasurer is hereby directed to pay the same. Provided that, if the appropriation made by this act shall be insufficient to provide for the erection and construction of all the buildings hereinbefore enumerated, the board of

directors of the said California State Agricultural Society, in their discretion, may erect and construct such buildings named herein as in their discretion can be erected and constructed by the appropriations provided for by this act.

§ 2. No contract for lumber, iron, machinery or material to be used for the purposes mentioned in section one of this act shall be entered into by the California State Agricultural Society until publication shall be made in at least three daily newspapers, two of said newspapers to be published in the city and county of San Francisco, and one in the city of Sacramento, for at least twenty days prior thereto, inviting bids for the supplying of such material. Such bids may be in the form of sealed proposals, shall be opened at a meeting of the directors of such society, and the contract shall be awarded to the lowest responsible bidder for supplying of such material.

§ 3. All bids for material and for the construction and equipment of said works shall be audited by the said board of directors of the California State Agricultural Society and approved by the state board of examiners before being paid.

§ 4. All plans, descriptions, bills of material, specifications and estimates necessary, requisite, proper or convenient for any of the purposes aforesaid, shall receive the sanction of a majority of the directors of the California State Agricultural Society and of the state board of examiners. The directors of the California State Agricultural Society shall cause an entry to be made in their minutes that such plans, descriptions, bills of material, specifications and estimates have been approved. It shall not be necessary to obtain the approval or sanction of any other board, officer or person to said plans.

§ 5. In addition to the appropriation made by this act, the board of directors of the said California State Agricultural Society are hereby authorized, and empowered to use, for the purpose of improving the said fair grounds, any moneys now in the state treasury of the state of California consisting of the residue remaining after the sale by the California State Agricultural Society of its real-estate, or any portion thereof, conformably to the terms and provisions of an act entitled "An act to authorize state agricultural societies under the control of the state, to sell property held by them in fee, or held by trustees for their use, or in which they may have any interest, to prescribe a course of procedure therefor, to indemnify purchasers at such sale, and to direct how the proceeds shall be applied," approved February twenty-fifth, eighteen hundred and ninety-seven, and any other act amendatory thereof or supplemental thereto, and paid into said state treasury pursuant to the terms of said act or acts. The said residue shall be paid to the directors of the California State Agricultural Society in the same manner as in section one of this act provided, and the state controller is hereby ordered and directed to draw the necessary warrants therefor, and the state treasurer is hereby directed to pay the same.

§ 6. The board of directors, officers and employees of the California State Agricultural Society are hereby prohibited from permitting any person or persons, or any corporation, within the grounds or premises owned by or under the control of the said California State Agricultural Society, to sell, or offer for sale, buy, or offer to buy, issue, or offer to issue, or in any manner dispose of, purchase, or acquire any interest in any pool, or in any pool ticket, certifi-

cate, writing, or other evidence of payment, acceptance or deposit of money, or other thing of value, staked upon the result of any running, pacing or trotting race or contest between horses, mares or geldings, or to make any bet or hazard on the result of such race or contest, or to act as a stakeholder of any bet or hazard laid on the result of any such race or contest, or to receive or pay over any money or article or thing of value, the ownership or right to possession of which has been, is, or is to be determined by any such race or contest, or to permit any gambling or gaming prohibited by section three hundred and thirty of the Penal Code of the state of California. And every person, officer and employee of said board of directors of the California State Agricultural Society permitting any of the acts herein prohibited, and every person who shall, within the confines of the land and premises of the said California State Agricultural Society, sell, or offer to sell, buy, or offer to buy, issue, or offer to issue, or in any manner dispose of, purchase or acquire any interest in any pool, or in any pool ticket, certificate, writing, or other evidence of payment, acceptance or deposit of money, or other thing of value, staked upon the result of any running, pacing or trotting race or contest between horses, mares or geldings, or to make any bet or hazard on the result of such race or contest, or to act as a stakeholder of any bet or hazard laid on the result of any such race or contest, or receive or pay over any money or article or thing of value, the ownership or right to possession of which has been, is, or is to be determined by any such race or contest, or to permit any gambling or gaming prohibited by section three hundred and thirty of the Penal Code of the state of California, is guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not exceeding six months.

§ 7. Of the sum of money appropriated by section one of this act, the sum of sixty thousand dollars shall not be payable to the said directors of the California State Agricultural Society, and the appropriation therefor shall not be available until, the first day of July, nineteen hundred and five.

§ 8. All acts and parts of acts, in conflict with this act, are hereby repealed.

§ 9. This act shall take effect and be in force from and after its passage.

As agency of state, see 17 L. R. A. 383.

CONTRIBUTION TO—Public character.—

As private corporation, see 12 L. R. A. 664. See note to preceding title.

CALIFORNIA STATE AGRICULTURAL SOCIETY.

Making an appropriation to the board of directors of the California State Agricultural Society for the purpose of paying certain indebtedness, claims and demands against the said society.

(Stats. 1905, 198, ch. CCIX.)

§ 1. The sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, to be paid by the state of California to the board of directors of the California State Agricultural Society, for the purpose of paying and discharging the indebtedness, claims and demands that have accrued against the said society.

§ 2. All claims shall first be approved by the board of directors of the said

California State Agricultural Society and by the state board of examiners before being paid.

§ 3. No moneys shall be paid out, pursuant to the terms of this act, until the said board of directors of the California State Agricultural Society shall make, execute and deliver to the state of California a deed conveying all its right, title and interest in and to all the real estate owned by said society, or in which it claims any right, title or interest. The said deed shall be deposited with the secretary of state. If, before the passage of this act, the said California State Agricultural Society shall have made such deed, the same shall be considered a compliance with this condition.

§ 4. The state controller is hereby directed to draw his warrant for the sum herein appropriated, and the state treasurer is hereby directed to pay the same.

§ 5. The appropriation made by this act shall be in addition to any appropriation heretofore made for a like purpose.

§ 6. This act shall take effect and be in force from and after the first day of July, nineteen hundred and five.

See notes to two preceding titles.

CALIFORNIA VOLUNTEERS.

To provide for the revision of the records of the California Volunteers, to authorize the adjutant-general to employ additional clerk, or clerks, for that purpose, and to authorize the superintendent of state printing to print, bind, and issue the same.

(Stats. 1889, 228, ch. CXIX.)

§ 1. The adjutant-general is hereby authorized to have the records of the California Volunteers revised and rewritten, and he is hereby empowered and authorized to employ an additional clerk, or clerks, for that and other work connected therewith, for a term not exceeding two years, at monthly salaries of one hundred and fifty dollars.

§ 2. Upon the requisition of the adjutant-general the superintendent of state printing shall print, bind, and deliver to him ten thousand copies of the record of California Volunteers, as provided for in section one of this act, bound in cloth.

§ 3. The above-mentioned copies of the records of California Volunteers shall be distributed by the adjutant-general to state officers, adjutant-generals of other states, and upon application of living members of California Volunteers, or their heirs if deceased, one copy to each.

§ 4. This act shall take effect from and after the commencement of the forty-first fiscal year.

CANDIDATES FOR OFFICE—PLEDGING.

(Stats. 1897, 53, ch. LIX.)

This statute has been carried into the Penal Code by Stats. 1905, 643, § 55a.—See **KERR'S** **CYC. PEN. CODE** § 55a; and tit. Elections—Purity of, post.

As to effect of violating pledge to convention, see 42 L. R. A. 222.

CEMETERIES.

To provide the manner of execution of deeds by cemetery corporations.

(Stats. 1895, 75, ch. LXXXI.)

§ 1. All deeds or conveyances executed by cemetery associations or incorporations within this state, shall be executed in the name of the corporation or association, under the seal thereof, by the president, or vice-president, and secretary thereof.

§ 2. All acts and parts of acts in conflict with this statute, in so far as they conflict with the same, are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

CEMETERIES—RURAL.

To authorize the incorporation of rural cemetery associations.

(Stats. 1859, 281, ch. CCLXVII; amended, 1863-4, 12, ch. XIII; § 13 added 1891, 264, ch. CLXXXIV; supplemented "Cremation," 1899, 36, ch. XL.)

§ 1. Any number of persons residing in this state, not less than seven, who shall desire to form an association for the purpose of procuring and holding lands, to be used exclusively for a cemetery or place for the burial of the dead, may meet at such time and place, as they, or a majority of them may agree, and appoint a chairman, or secretary, by a vote of the majority of the persons present at the meeting, and proceed to form an association, by determining on a corporate name, by which the association shall be called and known, by determining on the number of trustees, to manage the concerns of the association, which number shall not be less than six, nor more than twelve, and thereupon may proceed to elect, by ballot, the number of trustees, so determined on, and the chairman and secretary shall, immediately after such election, divide the trustees, by lot, into three classes; those in the first class to hold their office one year; those in the second class, two years; and those in the third class, three years; but the trustees of each class may be re-elected, if they shall possess the qualifications hereinafter mentioned. The meeting shall also determine on what day, in each year, the future annual elections of trustees shall be held.

§ 2. The chairman and secretary of the meeting shall within three days after such meeting, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take proof and acknowledgment of conveyances, in the county where such meeting shall have been held, which certificate shall state the names of the associates determined upon by the majority of the persons who met; the number of trustees fixed on to manage the concerns of the association; the names of the trustees chosen at the meeting, and their classification, and the day fixed on for the annual election of trustees; which certificate it shall be the duty of the chairman and secretary of such meeting to cause to be filed and recorded in the office of the county clerk of the county in which the cemetery grounds are situated, in a book to be appropriated to the recording of certificates of incorporation.

§ 3. Upon such certificate, duly acknowledged and filed as aforesaid, being

recorded, the association mentioned therein shall be deemed legally incorporated, and shall be a body politic and corporate, in fact and in name, by the name stated in the certificate, and by their corporate name, have succession and power:

First—To sue and be sued in any court.

Second—To make and use a common seal, and alter the same at pleasure.

Third—To purchase, hold, sell, and convey, such real and personal estate as the purposes of the incorporation shall require.

Fourth—To appoint such officers, agents, and servants, as the business of the corporation shall require, to define their powers, prescribe their duties, and fix their compensation.

Fifth—To require of them such security as may be thought proper for the fulfilment of their duties, and to remove them at will, except that no trustee shall be removed from office unless by a vote of two thirds of the whole number of trustees, or by a vote of a majority of the trustees, on a written request, signed by one half of the lot owners.

Sixth—To make by-laws not inconsistent with the laws of this state, for the organization of the company, the management of the property, regulation of its affairs, and for carrying on all kinds of business within the object and purposes of the company. The affairs and property of such associations shall be managed by the trustees, who shall annually appoint, from among their number, a president and vice-president, and shall also appoint a secretary and treasurer, who shall hold their places during the pleasure of the board of trustees, and the trustees may require the treasurer to give security for the faithful performance of the duties of his office.

§ 4. Any association incorporated under this act, may take, by purchase or devise, and hold, within the county in which the certificate of their incorporation is recorded, not exceeding three hundred and twenty acres of land, to be held and occupied exclusively for a cemetery for the burial of the dead. Such land, or such parts thereof as may from time to time be required for that purpose, shall be surveyed and subdivided into lots or plats of such size as the trustees may direct, with such avenues, paths, alleys, and walks, as the trustees deem proper; and a map or maps of such surveys shall be filed in the office of the county recorder of the county in which the land shall be situated. And after filing such map, the trustees may sell and convey the lots or plats designated upon such map, upon such terms as shall be agreed upon, and subject to such conditions and restrictions, to be inserted in or annexed to the conveyances, as the trustees shall prescribe. The conveyances to be executed under the common seal of the association, and signed by the president or vice-president, and the treasurer of the association. Any association incorporated under this act may hold personal property to an amount not exceeding five thousand dollars, besides what may arise from the sale of lots or plats.

§ 5. The annual election of trustees, to supply the place of those whose term of office expires, shall be holden on the day mentioned in the certificate of incorporation, and at such hour and place as the trustees shall direct; at which election shall be chosen such number of trustees as will supply the places of those whose term expires. The trustees chosen at any election subsequent to the first, shall hold their places for three years, and until others shall be chosen

to succeed them. The election shall be by ballot, and every person of full age, who shall be the proprietor of a lot or plat in the cemetery of the association, containing not less than two hundred square feet of land, or if there be more than one proprietor of any such lot or plat, then such one of the proprietors as the majority of joint proprietors shall designate to represent such lot or plat, may, either in person or by proxy, give one vote for each plat, or lot, of the dimensions aforesaid; and the persons receiving a majority of all the votes given at such election, shall be trustees, to succeed those whose term of office expires. But in all elections after the first, the trustees shall be chosen from among the proprietors of lots, or plats, and the trustees shall have power to fill any vacancy in their number occurring during the period for which they hold their office. Public notice of the annual elections shall be given in such manner as the by-laws of the corporation shall prescribe.

§ 6. The trustees, at each annual election, shall make reports to the lot proprietors of their doings, and of the management and condition of the property and concerns of the association. If the annual election shall not be held on the day fixed in the certificate of incorporation, the trustees shall have power to appoint another day, not more than sixty days thereafter, and shall give public notice of the time and place at which time the election shall be held, with like effect as if holden on the day fixed on in the certificate.

The office of the trustees chosen at such time, to expire at the same time as if they had been chosen at the day fixed by the certificate of incorporation.

§ 7. After its formation in the manner provided in the preceding section, the corporation shall proceed to purchase suitable grounds for the proposed cemetery, and to the vendor thereof they are authorized to issue the bonds of the corporation for the amount of the purchase money, bearing interest not exceeding the rate of twelve per centum per annum, but payable out of sixty per centum of the proceeds of the cemetery, as the same shall be realized, and not otherwise. Sixty per centum at least of the proceeds of all sales of lots, plats, or graves, shall be first appropriated to the payment of the said bonds and interest aforesaid, payable at least once in three months to the bondholders, until all are paid, and the residue thereof to be used in preserving, improving, and embellishing the said cemetery grounds and the avenues or roads leading thereto, and to defraying the incidental expenses of the cemetery establishment, and after payment of the purchase money and interest aforesaid, and all debts contracted therefor, and for surveying and laying out the land, the proceeds of all future sales shall be appropriated to the improvement, embellishment, and preservation of such cemetery, and for incidental expenses, and to no other purpose or object; provided, that any association incorporated under this act by the members of the Order of Free and Accepted Masons, the Independent Order of Odd Fellows, or by the members of any other benevolent or charitable society in the city and county of San Francisco, may apply the surplus or net income of such cemetery association to the board of relief or other committee established by such order or society for the purposes of charity. [Amendment, Stats. 1863-4, 12.]

§ 8. Any person who shall wilfully destroy, mutilate, deface, injure, or remove, any tomb, monument, gravestone, building, or other structure, placed

in any cemetery of any association incorporated under this act, or any fence, railing, or other work, for the protection or ornament thereof, or of any tomb, monument, or gravestone, or other structure aforesaid, or of any plat or lot within such cemetery, or shall wilfully destroy, cut, break, or injure, any tree, shrub, or plant, within the limits of such cemetery, shall be deemed guilty of a misdemeanor, and such offender shall also be liable in an action of trespass, to be brought, in all such cases, in the name of such association, to pay all such damages as shall have been occasioned by his unlawful act, or acts. Such money, when recovered, shall be applied, by the trustees, to the reparation, or restoration of the property so destroyed, or injured.

§ 9. Any association incorporated pursuant to this act, may take and hold any property, real or personal, bequeathed, or given upon trust, to apply the income thereof, under the direction of the trustees of such association, for the improvement or embellishment of such cemetery, or the erection or preservation of any building, structure, fences, or walks, erected, or to be erected, upon the lands of such cemetery association, or upon the lots, or plats, of any of the proprietors; or for the repair, preservation, erection, or removal of any tomb, monument, gravestone, fence, railing, or other erection, on or around any cemetery, lot, or plat, or for planting, or cultivating trees, shrubs, flowers, or plants, in or around any such lot, or plat, or for improving or embellishing such cemetery, or any of the lots, or plats, in any other manner or form, consistent with the design and purposes of the association, according to the terms of such grant, devise, or bequest.

§ 10. The cemetery lands and property of any association, formed pursuant to this act, shall be exempt from all public taxes, rates, and assessments, and shall not be liable to be sold on execution, or be applied in payment of debts due from any individual proprietors. But the proprietors of lots, or plats, in such cemeteries, their heirs, or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purpose of a cemetery; and, during that time, no street, road, avenue, or thoroughfare, shall be laid through such cemetery, or any part of the lands held by such association, for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the legislature of the state.

§ 11. Whenever the said lands shall be laid off into lots, or plats, and such lots, or plats, or any of them, shall be transferred to individual holders, and after there shall have been an interment in a lot, or plat, so transferred, such lot, or plat, from the time of such interment, shall be forever thereafter inalienable, and shall upon the death of the holder or proprietor, thereof, descend to the heirs at law of such holder, proprietor, and to their heirs at law forever; provided, nevertheless, that any one or more of such heirs at law may release, to any other of the said heirs at law, his, her, or their, interest in the same, on such conditions as shall be agreed on and specified in such release, which release shall be recorded with the county recorder of the county within which the said cemetery shall be situated; and, provided further, that the body of any deceased person shall not be interred in such lot, or plat, unless it be the body of a person having, at the time of such decease, an interest in such lot, or plat, or the relative of some person having such interest, or the wife of such person,

or her relative, except by the consent of all persons having an interest in such lot, or plat.

§ 12. In case the grounds purchased for cemetery purposes, in accordance with section seven of this act, shall have been used as a cemetery previous to such purchase, then those who are lot owners, at the time of the purchase, shall have, and be entitled to, all the privileges they would be entitled to by purchase from a corporation formed as aforesaid.

§ 13. Whenever all the bodies buried in any lot or plot, in this act referred to, shall have been removed therefrom, with the consent of a majority of the board of directors of the corporation owning said cemetery, it shall be lawful for the owners of said lot or plot, with the consent of a majority of said directors, to transfer the same by deed. [New section added, Stats. 1891, 264.]

See next two succeeding statutes; also **Health—Public; State Board of Health; Burial and Disinterment Permits; Municipal Corporations—Cemeteries.**

CEMETERIES—CREMATION.

Supplemental to an act entitled “An act to authorize the incorporation of rural cemetery association,” approved April twenty-eight, eighteen hundred and fifty-nine, authorizing such association to erect, purchase, or lease buildings and furnaces and other works for cremation of human bodies; also to erect or lease buildings in which shall be entombed only the ashes of cremated dead, to make provision for the care of the burial places and ashes of the dead; also to provide for the cremation of the unclaimed dead and bodies liable, if interred, to spread disease.

(Stats. 1899, 36, ch. XL.)

§ 1. Associations incorporated under the act of which this act is supplementary, shall, in addition to the powers granted by said act, have authority to purchase, lease, or erect buildings and appliances to be used exclusively for the purpose of cremating human bodies, and they may purchase, or lease, and hold land necessary for cremation purposes, or for the erection of columbariums for the entombing of the ashes of the cremated, when inclosed in metal or stone or cement vessels, and not otherwise; but no uncremated body shall be interred or placed for any time whatever inside of the walls, or in the walls, of a place where the ashes of the cremated are deposited.

§ 2. Such associations shall invest their funds and use the proceeds thereof, after current expenses are paid, for the perpetual care of grounds, lots, buildings, and niches, according to contracts made and to be made with patrons, and in conducting its business such association shall have the same powers granted by law to corporations in general; provided, they shall have no authority to contract any pecuniary obligation whatever, nor shall they have power to levy or collect assessments.

§ 3. In case of epidemics or the prevalence of contagious diseases, or otherwise, the proper authorities of any county, city and county, city, or town, may order the unclaimed or unknown dead, and the dead who die in public institutions under the control of any county, city and county, city, or town, and the dead commonly buried at public expense, cremated, and their ashes immured or otherwise preserved in receptacles in columbariums, or interred in burial places; and human bodies, and parts of bodies, used in medical or other

schools (except specimens to be preserved) shall not be cast into the waters of the state, nor on the ground, nor in receptacles for refuse matter, nor in vaults, nor in sewers, but shall either be buried as deep in the ground as is by law required for dead bodies, or cremated, as in this act provided. But the remains of a person shall not be cremated by compulsion, under the provisions of this section, if he or his family, or any member thereof, or his church or spiritual adviser objects.

§ 4. A violation of any of the provisions of this act is a misdemeanor.

§ 5. This act shall be in force from the day of its passage.

See *tit. Cemeteries; Burial and Disinterment Permits; Health—Public; Municipal Corporations*; and see note under next following statute.

As to liability for cremated portion of servant's body, see 45 L. R. A. 535.

CREMATORY FURNACE—Contract of village for.—See 18 L. R. A. 45.

Same—Requisites to letting contract for.—See 47 L. R. A. 685.

Formation of corporations.—See **KERR'S CYC. CIVIL CODE** §§ 290, 296 and notes.

CEMETERIES—DISINTERMENT.

Providing for the removal of human remains from cemeteries in cities having a population of more than five thousand [fifteen hundred] and not exceeding one hundred thousand.

(Stats. 1893, 234, ch. CXC; amended 1895, 157, ch. CL.)

§ 1. The city council of any city in this state having a population of more than fifteen hundred and not exceeding one hundred thousand, may, by ordinance duly passed, and under such lawful rules and regulations which it may adopt, provide for the exhuming, taking up, and removal from cemeteries within the boundary lines of such city, or from cemeteries owned and controlled by such city that may have been located without its boundaries (and in which such cemeteries no interments of human remains have been made for a period of not less than two years), of all the human remains interred in such cemeteries. [Amendment, 1895, 157.]

The constitutionality of the foregoing statute may be considered in connection with: *Darcey vs. Mayor etc.*, 104 Cal. 642, 38 Pac. Rep. 500; *Marsh vs. Supervisors etc.*, 111 Cal. 368, 370, 43 Pac. Rep. 975; *Ex parte Glambonini*, 117 Cal. 573, 574, 49 Pac. Rep. 732; **KERR'S CYC. PEN. CODE**, § 290; **KERR'S CYC. POL. CODE**, § 3027; *People vs. Dalton*, 58 Cal. 226.

As to municipal control, dedication to cemetery or other purposes, or enforcing removal of bodies, see *San Francisco vs. Canavan*, 42 Cal. 541, 554; *Weisenberg vs. Truman*, 53 Cal. 63.

Also see Stats. 1905, 115, ch. CXIX, herein, under *tit. Burial and Disinterment Permits*, designed for the procurement of "vital statistics," apparently, rather than as a mere cemetery or "health" regulation.

See also *tit. Municipal Corporations—Cemeteries*.

Under *tit. Health—Public*, post, see Stats. 1877-8, 1050, ch. DCLXXIII, amended 1889, 139, ch. CL, prohibiting the removal of human remains from any grave, vault, etc., or transporting the same through any street, etc., without a permit.—*People vs. Dalton*, 58 Cal. 226.

CEREAL CROPS.

See *Agriculture*.

CHAMBERS OF COMMERCE.

To provide for the formation of chambers of commerce, boards of trade, mechanic institutes, and other kindred associations.

(Stats. 1865-6, 469, ch. CCCLXXXVI, amended 1868, 5, ch. VI, 1885, 76, ch. C.)

The foregoing has been carried into the Civil Code by Stats. 1905, 538, ch. CDXXXIII. See **KERR'S CYC. CIV. CODE**, §§ 591-592e.

CHARITIES AND CORRECTIONS—STATE BOARD OF

To create a state board of charities and corrections, prescribing its duties and powers, and appropriating money therefor.

(Stats. 1903, 482, ch. CCCLXIII.)

§ 1. A state board of charities and corrections is hereby created of six members, to be appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be of the same political party. Such members shall hold office for the period of twelve years and until their successors are appointed and qualified; provided, that the members of the first board appointed under this act shall, at their first meeting, so classify themselves by lot that two of them shall go out of office at the end of four years, two at the end of eight years, and two at the end of twelve years, and an entry of such classification shall be made in the minutes of said board, and a duplicate thereof shall be filed in the office of the secretary of state. Women may be appointed members of said board, or hold any position in the appointment of said board. No person shall be appointed a member, or continue to act as such, while he is a trustee, manager, director, or other administrative officer of an institution subject to the terms of this act. Appointments to fill vacancies before the expiration of such terms, shall be made for the residue of terms in the same manner as original appointments. The governor shall be ex officio a member of said board.

§ 2. The members shall act without compensation, but shall be allowed their actual necessary expenses. The said board may appoint a secretary, who shall receive such salary as may be determined by said board, not to exceed twenty-four hundred (\$2400) dollars per annum. All the expenses of said board, including the salary of the secretary, shall not exceed the sum of six thousand (\$6,000) dollars in any one fiscal year, and said sum of six thousand (\$6,000) dollars is hereby appropriated annually therefor out of any moneys in the treasury not otherwise appropriated. The secretary of said board shall execute a bond in the sum of five thousand (\$5,000) dollars, and take the oath of office prescribed by the Political Code for the executive officers of this state. The board shall provide itself with an office in the city and county of San Francisco. Meetings of the board may be held at such times and in such places in the state of California as said board may deem fit. It may make such rules and orders for the regulation of its own proceedings as it may deem necessary, and may fix the number of members necessary to constitute a quorum. The failure of a member to attend three consecutive meetings of said board during any calendar year, unless excused by formal vote of the board, may be construed by the governor as a resignation of said non-attending member.

§ 3. The board is hereby empowered and authorized, and it shall be its duty as a whole, or by committee, or by its secretary, to investigate, examine, and make reports upon the charitable, correctional, and penal institutions of the state, including the state hospitals for the insane, of the counties, cities and counties, cities and towns of the state, and such public officers as are in any way responsible for the administration of public funds used for the relief or maintenance of the poor in public institutions or of any of the inmates of said

institutions. All the persons or officers in charge of or connected with such public institutions or with the administration of said funds are hereby required to furnish to the board or its committee or secretary such information and statistics as they may request or require, and allow said board, committee or secretary free access to all departments of such institutions and to all of their records. In order to secure accuracy, uniformity and completeness in such statistics and information, the board may prescribe such forms of report and records by the state commission in lunacy regarding the state hospitals for the insane and by such other officers, boards or institutions as it may deem necessary and also such forms of registration at all public institutions referred to in this section as it may require. The state commission in lunacy on behalf of the institutions under its charge and the officers of all other institutions, and all officers, in any way responsible for public funds used for the relief of the poor or the maintenance of any inmates of said public institutions, are hereby required to follow such forms, records and registration so prescribed; provided, that the intent of this law is that so far as possible, the board shall make use of the forms of report, record and registration now obtaining in the state commission of lunacy and other state boards and institutions. All plans of new buildings, or parts of buildings for any of the public institutions coming under the provisions of this act, or any additions or alterations in such buildings, shall, before their adoption by the proper officials, be submitted to the board for suggestions and criticism.

§ 4. The board shall have the power to issue compulsory process to compel the attendance of any witness before said board or any member thereof, and to require the production of such books or papers relating to any public institution mentioned in section three of this act as they may deem necessary; provided, that no witness shall be required to attend before said board out of the county in which he resides. Any member of said board shall have power, and he is hereby authorized to administer an oath to any and all witnesses coming before said board, or any member thereof, for examination, and to examine such witness or witnesses in reference to any matter relating to public institutions mentioned in section three of this act appertaining to the inquiry before the board, or said member. Disobedience of a subpoena issued by said board, or refusal to be sworn, or to answer, shall subject such person disobeying or refusing to a forfeiture of one hundred dollars, to be recovered in a civil action brought in a court of competent jurisdiction by said board in its name as plaintiff, the money recovered to be appropriated to the use of said board.

§ 5. No provision in this act contained shall in any way be construed as preventing the governor of this state from making a plenary investigation in reference to the conduct of any public institutions under the terms of any act of the legislature of this state. Furthermore, the governor may at any time order an investigation by the board, or by a committee of its members, of the management of the above-named institutions, or any thereof.

§ 6. Three months prior to each regular session of the legislature, the board shall make a full and complete report to the governor of all its transactions during the preceding two years, showing fully and in detail all expenses incurred and moneys paid out by it, and giving a list of all officers and agents employed, and the actual condition of all institutions under its supervision, with such sug-

gestions as it may deem necessary and pertinent, and with recommendations for legislative and executive action.

§ 7. The provisions of this act shall not apply to the Veterans' Home of California, located at Yountville, Napa County, nor to the Woman's Relief Corps Home at Evergreen, Santa Clara County.

§ 8. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. This act shall be in force and take effect from and after its passage.

CHATTEL MORTGAGES—INTEREST.

Fixing the rates of interest and charges on loans upon chattel mortgages on certain personal property, and prescribing penalties for the violation of the act.

(Stats. 1905, 422, ch. CCCLIV.)

§ 1. It shall not be lawful for any individual, partnership, association or corporation lending money upon chattel mortgages, where there is taken for such loan any security upon any upholstery, furniture or household goods, oil paintings, pictures, or works of art, pianos, organs or sewing-machines, iron or steel safes, professional libraries or office furniture or fixtures, instruments of surveyors, physicians or dentists, printing presses or printing material, to have or charge for the use of money so loaned more than the rate of one and one half per centum per month interest thereon, and that no additional sum, either in the way of bonus or otherwise, shall be required or exacted of the borrower or borrowers; and further, that no charge for examination or valuation of property offered, insurance of same, and preparation, execution and recording of necessary papers shall be imposed, except as follows: For examination or valuation of property offered for mortgage and preparation of papers (both included), no greater sum than five (\$5.00) dollars where the amount loaned does not exceed three hundred (\$300.00) dollars. For necessary affidavits, recording of papers, and fire insurance premiums, the amounts actually to be paid for same, provided that the foregoing charges may be deducted from the principal of the loan when the same is made; and provided further, that in no case shall it be lawful to deduct interest in advance, nor make any charge for extension of loans, nor to divide or split up loans under any pretense whatsoever for the purpose of requiring or exacting any other or greater charges than prescribed herein.

§ 2. Any individual and any officer of any association or corporation, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall be fined one hundred dollars for the first offense, and a like fine and imprisonment in the county jail for thirty days for the second and each subsequent offense; and further, the mortgage or other instrument of security given for any loan shall become null and void as to the interest to be paid thereunder.

See, as to classes of property upon which chattel mortgages may be taken, **KERR'S CYC. CIV. CODE**, § 2955 and note.

CHEESE.

Defining the different grades of cheese, and for branding the same, manufactured in the state of California.

(Stats. 1897, 69, ch. LXXVI.)

§ 1. Every person or persons, firm or corporation, who shall at any creamery, cheese factory, or private dairy, manufacture cheese in the state of California, shall, at the place of manufacture, brand distinctly, and durably on the bandage of each and every cheese manufactured, and upon the package or box when shipped, the grade of cheese manufactured, as follows: "California full-cream cheese," "California half-skim cheese," and "California skim cheese."

§ 2. All brands for branding the different grades of cheese shall be procured from the state dairy bureau, and said bureau is hereby directed and authorized to issue to all persons, firms, or corporations, upon application therefor, uniform brands, consecutively numbered, of the different grades specified in section one of this act. The state dairy bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the state of California, other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change.

§ 3. The different grades of cheese are hereby defined as follows: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or other process, and having not less than thirty per centum of butter fat, shall be branded as "California full-cream cheese"; and such cheese only as shall be made from pure milk, and having not less than fifteen per centum of butter fat, shall be branded "California half-skim cheese"; and such cheese only as shall be made from pure skim-milk shall be branded "California skim cheese"; provided, that nothing in this section shall be construed to apply to "Edam," "Brickstein," "Pineapple," "Limburger," "Swiss," or hand-made cheese, not made by the ordinary Cheddar process.

§ 4. No person or persons, firms or corporations, shall sell, or offer for sale, any cheese, manufactured in the state of California, not branded by an official brand and of the grade defined in section three of this act.

§ 5. Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or by imprisonment in the county jail for not exceeding twenty-five days; and for each subsequent offense by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment in the county jail not less than fifty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

§ 6. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 7. This act shall take effect sixty days after its passage.

See tit. *Butter*, ante, Stats. 1897, 65, ch. LXXV; and tits. *Dairy Products*; *State Dairy Bureau*, post.

CHILDREN—ABANDONED—DELINQUENT.

Defining and providing for the control, protection, and treatment of dependent and delinquent children; prescribing the powers and duties of courts with respect thereto; providing for the appointment of probation officers, and prescribing their duties and powers; providing for the separation of children from adults when confined in jails or other institutions; providing for the appointment of boards to investigate the qualifications of organizations receiving children under this act, and prescribing the duties of such boards; and providing when proceedings under this act shall be admissible in evidence.

(Stats. 1903, 44, ch. XLIII; amend. Stats. 1905, 806, ch. DCX.)

§ 1. The title of said act is amended so as to read as follows: "An act defining and providing for the control, protection and treatment of dependent and delinquent children; defining such children; prescribing the powers and duties of courts in respect thereto; providing for the creation and appointment of probation officers, and prescribing their duties, powers, terms of office and compensation; providing for the commitment and confinement of such children; providing for the creation and appointment of boards, to be known as probation committees; to investigate the qualifications of organizations receiving children under this act; and prescribing the powers and duties of such boards, with respect to probation officers and otherwise, and prescribing the terms of office of the members of such boards; providing for the powers of courts and judges with respect to the appointment of probation officers and removal of same, and with respect to probation committees and members thereof; and providing when proceedings under this act shall be admissible in evidence." [Amendment, Stats. 1905, 806.]

§ 1. This act shall apply only to children under the age of sixteen years not now or hereafter inmates of a state institution. For the purposes of this act the words "dependent child" shall mean any child under the age of sixteen years who is found begging, or receiving or gathering alms (whether actually begging or under the pretext of selling or offering for sale anything), or being in any street, road, or public place for the purpose of so begging, gathering or receiving alms; or who is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence; or who is found destitute, or whose home, by reason of neglect, cruelty or depravity on the part of either of its parents or of its guardian, or other person in whose care it may be, is an unfit place for such child; or who frequents the company of reputed criminals or prostitutes, or who is found living or being in any house of prostitution or assignation, or who habitually visits, without parent or guardian, any saloon, or place where any spirituous liquors or wine, or intoxicating or malt liquors are sold, exchanged, or given away, or who is incorrigible, or who is a persistent truant from school. The words "delinquent child" shall include any child under the age of sixteen years who violates any law of this state, or any ordinance of any town, city, county, or city and county of this state. [Amendment, Stats. 1905, 806.]

§ 2. In counties having more than one judge of a superior court, the judges

of such court may from time to time designate one or more of their number whose duty it shall be to hear all cases coming under this act. In counties of the first class, such designation shall be made by the presiding judge. The orders and findings, if any, of the superior court, in all cases coming under the provisions of this act, shall be entered in a book to be kept for that purpose and known as the "Juvenile Record," and the court acting under this act shall be called the "Juvenile Court." In justices' courts having more than one justice of the peace, and in police courts having more than one judge, the justices of the peace and the judges of the police courts, from time to time may designate one of their respective number whose duty it shall be to hear all cases coming under this act. All cases coming under the provisions of this act shall be heard at a special separate session of the court, and no matter other than cases under this act shall be on the calendar, or shall be heard at such session, nor shall there be permitted to be present at such session any person on trial, or awaiting trial, or under accusation of crime, who does not come under the provisions of this act. [Amendment, Stats. 1905, 806.]

§ 3. Any citizen of the state may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent child, and praying that the superior court deal with such child as provided in this act. Such petition shall be verified, and shall contain a statement of the facts constituting such dependency as provided in section one of this act. There shall be no fee for filing said petition. [Amendment, Stats. 1905, 806.]

§ 4. Upon the filing of the petition, provided for in section three hereof, a citation shall issue, requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the citation. Service of such citation must be made at least twenty-four hours before the time stated therein. The parents or guardian of the child, if residing in the county in which the court sits, and if their places of residence be known to the petitioner, or if there be neither parent nor guardian so residing, or if their places of residence be not known to petitioner, then some relative of the child, if there be any residing in said county, and if his residence and relationship to such child be known to petitioner, shall be notified of the proceedings by service of citation requiring them to appear at the time and place to be stated in such citation. In any case, the judge may appoint some suitable person to act in behalf of the child, and may order such further notice of the proceeding to be given as he may deem proper. If any person cited as herein provided, shall fail, without reasonable cause, to appear and abide by the order of the court, or to bring the child, if so required in the citation, such failure shall constitute a contempt of said court and may be punished as provided for in cases of contempt of court. In case any such citation cannot be served, or the party served fails to obey the same, and in any case in which it shall be made to appear to the court that such citation will be ineffectual, a warrant of arrest may issue on the order of the court, either against the parent or guardian, or the person having the custody of the child, or with whom the child may be, or against the child itself, or any of said persons; or if there be no person to be served with citation as above provided, a warrant of arrest may be issued against the child immediately. On

the return of the citation or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case in a summary manner. Until the final disposition of any case, the child may be retained in the possession of the person having charge of the same, or may be kept, upon the order of the court, in some suitable place, provided by the county, or city and county, or may be held otherwise, as the court may direct. [Amendment, Stats. 1905, 806.]

§ 5. When any child under the age of sixteen years shall be found by said court or judge or justice to be dependent, within the meaning of this act, the court may make an order committing the child, for such time during its minority as the court may deem fit, to the care of some reputable citizen of good moral character, or to the care of some association, society or corporation willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, or to the care of the probation officers or other person to remain in the home of the child. The court may thereafter set aside, change or modify such order. [Amendment, Stats. 1905, 806.]

§ 6. The judge of the superior court in and for each county or city and county of the state, or where there are more than one judge of said court, a majority of the judges thereof by an order entered in the minutes of such court, shall appoint seven discreet citizens of good moral character, and of either sex, to be known as probation committee, and shall fill all vacancies occurring in such committee. The clerk of said court shall immediately notify each person appointed on said committee and thereupon said persons shall appear before the judge of said juvenile court, if there be one, or otherwise before a judge of said superior court in said county and qualify by taking oath, to be entered in said juvenile record, if any, or in the minutes of said superior court, to faithfully perform the duties of a member of such probation committee. [Amendment, Stats. 1905, 806.]

§ 7. The members of such probation committees shall hold office for four years, and until their successors are appointed, provided that of those first appointed, one shall hold office for one year, two for two years, two for three years, and two for four years, the terms for which the respective members first appointed shall hold office to be determined by lot as soon after their appointment as may be. When any vacancy occurs in any probation committee by expiration of the term of office of any member thereof, the successor shall be appointed to hold for the term of four years; when any vacancy occurs for any other reason, the appointee shall hold for the unexpired term of his predecessor. [Amendment, Stats. 1905, 806.]

§ 8. The members of the probation committee shall serve without compensation. [Amendment, Stats. 1905, 806.]

§ 9. The superior court or any judge thereof may at any time require said probation committee or a probation officer to examine into the qualifications and management of any society, association or corporation, other than a state institution, applying to receive any child or children under this act, and to report to the court, provided that nothing in this section shall be construed as giving any probation committee or probation officer any power to enter any institution without the consent of such institution.

It shall be the duty of each probation committee prior to December first in each year to prepare a report in writing on the qualifications and management of all societies, associations and corporations, except state institutions, applying for or receiving any child under this act from the courts of their respective counties, and in said report said committee may make such suggestions or comments as to them may seem fit; said report to be filed in the office of the clerk of the court appointing such committee, for the information of the judges thereof. [Amendment, Stats. 1905, 806.]

§ 10. In counties of the first class there shall be one probation officer and not more than five deputy probation officers; in counties of the second class, one probation officer and not more than one deputy probation officer; in all other counties there shall be one probation officer.

In any county or city and county additional deputy probation officers may be appointed and their appointment approved or disapproved as hereinafter provided, from time to time when in the opinion of the court it may be necessary, provided that they serve without salary. [Amendment, Stats. 1905, 806.]

§ 11. The salaries of the probation officers and deputy probation officers (except as herein otherwise provided) shall be as follows, and shall be paid out of the county treasury of the county for which they are appointed, after being allowed and audited in the same manner as salaries of other county officers:

In counties of the second class the probation officer shall receive one hundred and twenty-five dollars per month, and the deputy probation officer seventy-five dollars per month. In all other counties the probation officer and the deputy probation officers shall serve without compensation, provided however, that the probation officer and deputy probation officers in all the counties of the state shall be allowed such necessary incidental expenses as may be authorized by a judge of the superior court; and the same shall be a charge upon the county in which the court appointing them has jurisdiction, and the said expenses shall be paid out of the county treasury upon a warrant therefor issued by the said court. [Amendment, Stats. 1905, 806.]

§ 12. The offices of probation officer and deputy probation officer are hereby created. The appointments of probation officers and deputy probation officers to serve hereunder in any county or city and county shall be made by the probation committee of said county or city and county from discreet citizens of good moral character. The appointments by each probation committee shall be made in writing, signed by a majority of the members of such committee, and filed with the county clerk of such county, and shall be subject to and shall take effect upon approval by the judge of the superior court appointing such committee, or by a majority of the judges thereof if there be more than one; such approval to be by order entered in the minutes of said court. The term of office of probation officers and of deputy probation officers shall be two years from the date of the said approval of their several appointments, such probation officers and deputy probation officers may at any time be removed by the judge approving their appointment in his discretion. [Amendment, Stats. 1905, 806.]

§ 13. It shall be the duty of the clerk of any court before which a child is brought under the provisions of this act, or if there be no clerk, then it shall be the duty of the judge or justice of said court, before the hearing of said matter, to notify the probation officer of the county thereof; except in cases where the child is brought before the court by a society, association or corporation which embraces within its objects the care of dependent or delinquent children and which has in the last report thereon by the probation committee of such county been favorably passed upon. [Amendment, Stats. 1905, 806.]

§ 14. The probation officer or deputy probation officer detailed by him for that purpose, shall inquire into the child's antecedents, character, history, family environment and cause of delinquency or dependency, and shall make his report in writing to the judge or justice in the case of every child to be dealt with under the provisions of this act as a dependent or delinquent child; but only when the judge so specially orders it in the case of a dependent child who is already in the charge of a society, association or corporation which embraces within its objects the care of dependent children and which has in the last report thereon by the probation committee of such county been favorably passed upon. In the event that such a society, association or corporation shall be so in charge, it shall through its agent or superintendent make such report to the judge in place of the probation officer.

It shall be the duty of said probation officer or said deputy probation officer or said agent or superintendent of such society, association or corporation to be present in court in order to represent the interests of the child when the case is heard, and to furnish to the court such information and assistance as it may require and to make the said report at such time; and to take such charge of the child before and after the hearing as may be ordered.

The probation officer and each deputy probation officer shall have as to any child committed to the care of such probation officer, the powers of a police officer. At any time in his discretion such officer or deputy may bring such child before the court committing such child to his care, for such further or other action as the court may see fit.

Any of the duties of the probation officer may be performed by a deputy probation officer, and shall be performed by him whenever detailed to perform the same by the probation officer; and it shall be the duty of the probation officer to see that the deputy probation officer performs his duties. [New section added, Stats. 1905, 806.]

§ 15. If any child is arrested and taken before a justice of the peace or police judge, then at any time before the child is found delinquent and a commitment thereunder issues, it may be detained under order of the court in any detention home provided for that purpose by any county or city and county; or it may be otherwise provided for as the court sees fit in any manner provided herein for the care of a child after the finding of its delinquency. If, after a hearing, any child shall be found to be delinquent by such court, the justice of the peace or police judge may continue the further hearing from time to time, and may at any time commit the child to the care and custody of a probation officer and may allow such to remain in the home of such child, subject to the visitation of a probation officer, and such child shall report to

the probation officer as often as may be required and be subject to be returned to the court for further proceedings whenever such action may appear to be necessary or desirable. If the justice of the peace or police judge at any time deems it necessary or to the best interests of the child that he should be committed to a state reform school or to the care or custody of some association, society or corporation embracing in its objects the care of neglected, dependent, or delinquent children, or should be placed in a suitable family home, or that a guardian should be appointed for such child, the justice of the peace or police judge shall certify the case with a transcript of the docket or other record to the clerk of the superior court of the county or city and county in which the justices' court or police court is held, and the officer having the child in charge shall take the child before the superior court, and thereupon the superior court may proceed to hear and dispose of the case in the same manner as if the child had been brought before the court on petition as herein provided for dependent children. In such case the court shall require notice to be given and investigation to be made as in other cases under this act, and may adjourn the hearing from time to time for that purpose. [New section added, Stats. 1905, 806.]

§ 16. In the case of a child alleged to be delinquent, within the meaning of this act, and brought before the superior court at any time before the child is found delinquent and a commitment thereunder issues, it may be detained under order of the court in any detention home provided for that purpose by any county or city and county; or it may be otherwise provided for as the court sees fit in any manner provided herein for the care of a child after the finding of its delinquency. If the court find the child to be delinquent, said court may continue the hearing from time to time, and may at any time commit the child to the care or custody of the probation officer, and may allow such child to remain in the home of such child, subject to the visitation of a probation officer, and such child shall report to the probation officer as often as may be required, and be subject to be returned to the court for further proceedings whenever such action may appear necessary or desirable, or the court may commit the child to the care or custody of the probation officer, to be placed in a suitable family home, subject to the supervision of such probation officer and the further order of the court, or it may authorize the probation officer to board out the child in some suitable family home in case provision is made by voluntary contribution, or otherwise, for the payment of the board of such child, until a suitable provision may be made for the child in a home without such payment; or the court may commit the child for such time during its minority, as the court may deem fit, to the care and custody of some association, society or corporation that will receive it, embracing within its objects the care of dependent or delinquent children; or the court may commit such child to a state reform school, as is now, or may hereafter be provided by law in accordance with the procedure provided by law for such commitment. Provided, further, that should the legislative body of the county, or city and county, or of a municipality, provide a suitable place for the detention of said dependent and delinquent children, which they are hereby authorized to do, such children may be committed thereto after the adjudication of dependency or delinquency for a definite period to be specified in such order. The court

may thereafter set aside, change or modify such order, and may provide for a further detention in said place. Any order providing for the custody of a dependent or delinquent child may provide that the expense of maintenance of said child shall be paid by the parent or parents, or guardian, of said child, and in such case shall determine the amount so to be paid, and shall determine whether or not the parent or parents shall exercise any control over said child and the extent thereof, and any disobedience of such order or interference with the custody of the child as therein determined by a parent or guardian having notice of the proceedings or of the order shall constitute a contempt of court. The court may thereafter set aside, change or modify any order herein provided for. [New section added, Stats. 1905, 806.]

§ 17. No court or magistrate shall commit a child under twelve years of age to jail, prison or police station, but if such child is unable to give bail, it may be committed to the care of the sheriff, police officer, constable or probation officer, who shall keep such child in some suitable place provided by the city, county, or city and county, outside of the inclosure of any jail or police station. When any child shall be sentenced to confinement in any institution to which adult convicts or prisoners are sentenced or where adults are confined, it shall be unlawful to confine such child in the same room or yard or inclosure with such adult convicts or prisoners, or to permit such child to come or remain within sight of or meet or come into or remain in the presence of any of such adult convicts or prisoners. [New section added, Stats. 1905, 806.]

§ 18. Nothing in this act shall be construed to repeal any portion of the act entitled "An act to establish a state reform school for juvenile offenders, and to make an appropriation therefor," approved March eleven, eighteen hundred and eighty-nine, or any of the amendments thereto, or the act entitled "An act to establish the California Home for the Care and Training of Feeble-Minded Children, and provide for the maintenance of the same," approved March eighteen, eighteen hundred and eighty-five, or any of the amendments thereto, or the act entitled "An act to establish a school of industry, and provide for the maintenance and management of the same and to make an appropriation therefor," approved March eleven, eighteen hundred and eighty-nine, or any of the amendments thereto; and in all commitments to said institutions, the acts in reference to said institutions shall govern the same. [New section added, Stats. 1905, 806.]

§ 19. No record of or testimony concerning any proceedings against any child under this act shall be admissible as evidence against such child in any other court or proceeding, except in proceedings under this act, and except in guardianship or adoption proceedings relating to said child. [New section added, Stats. 1905, 806.]

§ 20. This act shall be liberally construed, to the end that its purpose may be carried out, to wit—that the care, custody and discipline of a child shall approximate as nearly as may be that which should be given by its parents, and in all cases where it can be properly done, the child be placed in an approved family, with people of the same religious belief and become a member of the family by legal adoption, or otherwise. In this act, words used in any gender shall include all other genders, and the word "county" shall include "city and county." [New section added, Stats. 1905, 806.]

§ 21. All acts and parts of acts inconsistent with this act are hereby repealed, except as hereinabove provided in section nineteen [eighteen].— [New section added, Stats. 1905, 806.]

The foregoing act purports to amend Stats. 1903, 44, but in reality it entirely supersedes and leaves nothing of former act in force.

CHILDREN—Educational rights of;
Cruelty to;
Employment of;

Feeble-minded;
Sale of liquor to;
Orphans;
Sale of;
Wrongs to;
Hours of labor,—as to, see next several statutes following.

CHILDREN—HOURS OF LABOR, ETC.

Regulating the employment and hours of labor of children; prohibiting the employment of minors under certain ages; prohibiting the employment of certain illiterate minors; providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof.

(Stat. 1905, 11, ch. XVIII.)

§ 1. No minor under the age of eighteen shall be employed in laboring in any manufacturing, mechanical, or mercantile establishment, or other place of labor, more than nine hours in one day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed fifty-four hours in a week.

§ 2. No minor under the age of sixteen years shall be employed or permitted to work in any mercantile institution, office, laundry, manufacturing establishment, or workshop, between the hours of ten o'clock in the evening and six o'clock in the morning.

No child under fourteen years of age shall be employed in any mercantile institution, office, laundry, manufacturing establishment, workshop, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages.

Provided that the judge of the juvenile court of the county, or city and county, or in any county or city and county in which there is no juvenile court, then any judge of the superior court of the county, or city and county in which such child resides, shall have authority to issue a permit to work to any such child over the age of twelve years, upon a sworn statement being made to him by the parent of such child that such child is past the age of twelve years, that the parents or parent of such child are incapacitated for labor, through illness, and after investigation by a probation officer or truant officer of the city, or city and county, in which such child resides, or in cities and counties where there are no probation or truant officers, then by such other competent persons as the judge may designate for this purpose. The permit so issued shall specify the kind of labor and the time for which it is issued, and shall in no case be issued for a longer period than shall seem necessary to the judge issuing such permit. Such permit shall be kept on file by the person, firm or corporation employing the child therein designated, during the term of said employment, and shall be given up to said child upon his

quitting such employment. Such certificate shall be always open to the inspection of the truant and probation officers of the city and county, city or county, in which the place of employment is situated or of the officers of the state bureau of labor statistics.

And provided that any such child, over the age of twelve years, may be employed at any of the occupations mentioned in this act during the regular vacation of the public schools of the city, county, or city and county in which the place of employment is situated, upon the production of a permit signed by the principal of the school which such child has attended during the term next preceding any such vacation. Such permit shall contain the name and age of the child to whom it is issued, and the date of the termination of the vacation for which it is issued, and shall be kept on file by the employer during the period of employment, and at the termination of such employment shall be returned to the child to whom it was issued.

No minor who is under sixteen years of age shall be employed or permitted to work at any gainful occupation during the hours that the public schools of the city, town, or school district in which his place of employment is situated are in session, unless he or she can read English at sight and can write legibly and correctly simple English sentences, or unless he or she is a regular attendant for the then current term at a regularly conducted night school. A certificate of the principal of such school shall be held to be sufficient evidence of such attendance.

§ 3. Every person, firm, or corporation employing minors under eighteen years of age, in any manufacturing establishment, shall post, and keep posted, in a conspicuous place in every room where such help is employed, a written or printed notice stating the number of hours per day for each day of the week required of such persons.

Every person, firm, corporation, agent or officer of a firm or corporation employing or permitting minors under sixteen years and over fourteen years of age to work in any mercantile institution, office, laundry, manufacturing establishment, workshop, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, shall keep a record of the names, ages, and places of residence of such minors, and shall have on file a certificate of age and schooling, as provided in this act, for every such minor so employed, said record and certificate to be open at all times to the inspection of those whose duty it is to enforce the provisions of the act.

An age and schooling certificate shall be approved only by the superintendent of schools of the city or city and county, or by a person authorized by him, in writing, or where there is no city or city and county superintendent of schools, by a person authorized by the local school trustees; provided that the superintendent or principal of any school of recognized standing shall have the right to approve an age and schooling certificate, and shall have the same rights and powers as the superintendent of public schools to issue the certificate herein provided, for children attending such schools. The persons authorized to issue age and schooling certificates shall have the authority to administer the oaths necessary for carrying out the provisions of this act, but no fee shall be charged for issuing such certificates.

An age and schooling certificate shall not be approved unless satisfactory

evidence is furnished by the last school census, the certificate of birth or baptism of such child, the public register of birth of such child, or in some other manner, that such child is of the age stated in the certificate.

A duplicate copy of each age and schooling certificate granted under the provisions of this act shall be kept by the person issuing such certificate, such copy to be filed with the county superintendent of schools in the county where the certificate was issued, provided that all such copies of certificates issued between June twenty-fifth and December twenty-fifth of any year shall be filed not later than December thirty-first of such year, and those issued between December twenty-fifth and June twenty-fifth of the ensuing year shall be filed not later than June thirtieth of each year. Such certificate shall be substantially in the following form, to wit:

Age and Schooling Certificate.

This certifies that I am the (father, mother, or guardian) of (name of child), and that (he or she) was born at (name of town or city), in the county of (name of county) (if known) and state (or country) of (name), on the (day and year of birth), and is now (number of years and of months) old.

Signature as provided in this act.

Town or city, and date.

There personally appeared before me the above-named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of child), height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) can or cannot read English at sight, and can or cannot write legibly simple sentences in the English language.

Signature of the person authorized to sign, with his official character and authority.

Town or city, and date.

This certificate belongs to, the person in whose behalf it is drawn, and it shall be surrendered to (him or her) whenever (he or she) leaves the services of the person, firm, or corporation holding the same.

The certificate as to the birthplace and age of the minor under sixteen and over fourteen years of age shall be signed by his father, his mother, his guardian; if a child has no father, mother, or guardian living in the same city or town, his own signature to the certificate may be accepted by the person authorized to approve the same.

Every person authorized to sign the certificate prescribed by this act, who knowingly certifies to any false statement therein, is guilty of a misdemeanor and upon conviction thereof shall be fined not less than five nor more than fifty dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.

§ 4. Any person, firm, corporation, agent, or officer of a firm or corporation that violates or omits to comply with any of the foregoing provisions of this act, or that employs, or suffers, or permits any minor to be employed in violation thereof, is guilty of a misdemeanor and shall, on conviction thereof

be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for each and every offense. A failure to produce any age and schooling certificate or permit, or to post any notice required by this act, shall be prima facie evidence of the illegal employment of any person whose age and schooling certificate or permit is not produced, or whose name is not so posted. Any fine collected under the provisions of this act shall be paid into the school funds of the county, or city and county, in which the offense occurred.

§ 5. Nothing in this act shall be construed to prohibit the employment of minors at agricultural, horticultural, viticultural or domestic labor, during the time the public schools are not in session, or during other than school hours.

§ 6. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act. But any person may lay an information before a magistrate of the commission of any public offense defined in this act.

§ 7. This act shall take effect sixty days after its passage.

The foregoing statute evidently supercedes the Stats. 1901, 631, ch. CCV, upon the same subject.

See new section, Stats. 1905, ch. LXXV; **KERR'S CYC. PEN. CODE** § 273, relative to minors entering saloons, gambling houses, and other immoral places.

Duty to warn of danger infant employees.
—See 1 Am. St. Rep. 28.

Violation of statute prohibiting employment of minors—Evidence of negligence.—
See 61 L. R. A. 811.

Duration daily session.—Pol. Code § 1673.
School month defined.—Pol. Code § 1697.

CHILDREN—EDUCATIONAL RIGHTS OF.

To enforce the educational rights of children and providing penalties for violation of the act.

(Stats. 1903, 388, ch. CCLXX; amended Stats. 1905, 388, ch. CCCXXXIII.)

§ 1. Unless excused as hereinafter provided, each parent, guardian, or other person, in the state of California, having control or charge of any child between the ages of eight and fourteen years, shall be required to send such child to a public school, during the time in which a public school shall be in session, in the city or city and county or school district in which said child resides; provided, that should it be shown to the satisfaction of the board of education of the city or city and county, or of the board of trustees of the school district, in which such child resides, that the child's bodily or mental condition is such as to prevent or render inadvisable attendance at school, or application to study, a certificate from any reputable physician that the child is not able to attend school, or that its attendance is inadvisable, must be taken as satisfactory evidence, by any such board, or that such child is being taught in a private school, or by a private tutor, or at home by any person capable of teaching, in such branches as are usually taught in the primary and grammar schools of this state; or that any such child between the age of twelve and fourteen years has been given a permit to work by the proper judicial officer in accordance with section two of "An act regulating the employment and hours of labor of children, prohibiting the employment

of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation thereof," approved February twenty, nineteen hundred and five; or that no public school is located within two miles, by the nearest traveled road, of the residence of the child; or that the child has completed the prescribed grammar school course; then it shall be the duty of such board of education or board of trustees, upon application of the parent, or guardian, or other person having the control or charge of such child, to excuse such child from attendance at school, during the continuance of such defect or condition upon which such excuse is granted; and provided further, that circumstances rendering attendance impracticable or dangerous to health, owing to unusual storm or other sufficient cause, shall work an exemption from the penalties of this act. If any parent or guardian or other person having control or charge of any such child presents proof to such board of education or board of trustees, by affidavit, that he is unable to compel such child to attend school, said parent, guardian, or other person shall be exempt from the penalties of this act, as regards the subsequent non-attendance at school of such child, and said child may, in the discretion of such board, be deemed a truant and subject to assignment to the parental school. [Amendment, Stats. 1905, 388.]

§ 2. Any parent, guardian, or other person having control or charge of any such child, who shall fail to comply with the provisions of this act, shall, unless excused or exempted therefrom as hereinbefore provided, be deemed guilty of a misdemeanor, and upon conviction, shall be liable, for the first offense, to a fine of not more than ten dollars or to imprisonment for not more than five days, and for each subsequent offense he shall be liable to a fine of not less than ten nor more than fifty dollars, or to imprisonment for not less than five days nor more than twenty-five days, or to both such fine and imprisonment.

§ 3. The board of education of any city or city and county, or the board of trustees of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against parents or guardians or other persons having control or charge of any such child, for violation of any of the provisions of this act. If it shall appear upon such investigation that any such parent or guardian or other person has violated any of the provisions of this act, it is hereby made the duty of the secretary of such board of education, except as hereinafter provided, or the clerk of such board of trustees, to make and file in the proper court a criminal complaint against such parent, guardian or other person, charging such violation, and to see that such charge is prosecuted by the proper authorities; provided, that in cities, and cities and counties having an attendance officer or officers, such officer or officers shall, under the direction of the board of education, or the city superintendent of schools, make and file such complaint, and see that such charge is prosecuted by the proper authorities.

§ 4. The board of education of any city, or city and county, may appoint and remove at pleasure one or more attendance officers of such city, or city and county, and shall fix their compensation, not exceeding one thousand dol-

lars per annum for any such officer, payable from the county or special school fund of such city or city and county, and shall prescribe their duties, not inconsistent with law, and make rules and regulations for the performance thereof; provided, that in any city, or city and county, containing less than twenty thousand school census children, not more than one attendance officer shall be appointed, and in any city, or city and county, containing more than twenty thousand school census children, not more than one attendance officer shall be appointed for each twenty thousand school census children, or fraction greater than one half thereof.

§ 5. It shall be the duty of the attendance officer to arrest during school hours, without warrant, any child between eight and fourteen years of age, found away from his home, and who has been reported to him by the teacher, the superintendent of schools, or other person connected with the school department as a truant from instruction upon which he is lawfully required to attend within the city, or city and county. He shall forthwith deliver the child so arrested either to the parent, guardian or other person having control or charge of such child, or to the teacher from whom said child is then a truant, or if such child shall have been declared an habitual truant, he shall bring such child before a magistrate for commitment by him to a parental school, as provided in this act. The attendance officer shall report promptly such arrest, and the disposition made by him of such child, to the school authorities of such city, or city and county. Any child may be reported as a truant, in the meaning of this act, who shall have been absent from school without valid excuse more than three days or tardy on more than three days, any absence for a part of a day being regarded as a tardiness. Any child who has once been reported as a truant and who is again absent from school, without valid excuse, one or more days, or tardy on one or more days, may again be reported as a truant. Any child may be deemed an habitual truant who shall have been reported as a truant three or more times. Any child who has once been declared an habitual truant and who, in a succeeding year, is reported as a truant from school one or more days or tardy on one or more days without valid excuse, may be again declared an habitual truant.

§ 6. The board of education of any city, or city and county, may establish schools in a manner hereinafter prescribed, or set apart rooms in public school buildings for children between eight and fourteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a parental school. A parental school, as herein designated and provided for, shall be one of the primary and grammar schools of the city, or city and county, and the teachers therein shall have the same qualifications and be employed and paid in the same manner as in other primary and grammar schools; but such parental school shall be established and maintained specially for the instruction therein of such pupils, between the ages of eight and fourteen years, as shall be committed thereto as provided in this act, and no pupil shall be committed to, or required to attend, such school, except as in this act provided. Said board of education may make such special rules and regulations for the government of a parental school as shall be consistent

with the provisions and purposes of this act and not contrary to law. Such board may provide for the detention, maintenance and instruction of such children in such schools; and such board or the city superintendent of schools in any city, or city and county, may, after reasonable notice to any such child, and an opportunity for the child to be heard, and with the consent of the parent, guardian or other person having control or charge of such child, order such child to attend such school, or to be detained and maintained therein for such period and under such rules and regulations as such board may prescribe, not exceeding the remainder of the school year. If such parent, guardian, or person having control or charge of such child shall not consent to such order, such child may be proceeded against under this act. If any child, in any city, or city and county in which a parental school shall be established, shall be an habitual truant, or be irregular in attendance at school, within the meaning of these terms as defined in this act, or shall be insubordinate or disorderly during attendance at school, it shall be the duty of the attendance officer, or of the secretary of the board of education if there be no attendance officer, to make and file a complaint against such child, in the proper court, charging the fact, and to see that such charge is prosecuted by the proper authority; and if the court, upon the hearing of such complaint, shall find that such charge is sustained, the court shall render judgment that such child be committed to, and be detained and maintained in, a parental school in such city, or city and county, for a term not to exceed the remainder of the current school year; provided, that if the parent, guardian or other person having control or charge of such child shall, within three days after the rendition of such judgment, execute a good and sufficient bond to the board of education of the city or city and county in which said court is situated, with sufficient sureties, in the sum of two hundred dollars, conditioned that such child will, during the remainder of such current school year, regularly attend some public or private school in such city, or city and county, and not be insubordinate or disorderly during such attendance, such bond to be approved by the judge of said court and be filed with the secretary of the board of education, then such court shall make an order suspending the execution of such judgment so long as the condition of such bond shall be complied with. If the condition of such bond be violated, such court, upon receiving satisfactory evidence of the fact in any action brought therefor, shall make an order declaring such bond forfeited and directing such judgment to be thenceforth enforced. Such board of education may, at any time within one year after any such bond shall be declared forfeited, have execution issued against any or all of the parties to such bond, to collect the amount thereof; and all moneys paid or collected on such bond shall be paid over to the parental school fund of such city, or city and county. No fees shall be charged or received by any court or officer in any proceeding under this section. The confinement of any child in a parental school shall be conducted with a view to the improvement of the child and to its restoration, as soon as practicable, to the school which he would, if not so confined, be required to attend. The city superintendent of schools, or, if there be no city superintendent, the board of education of any city, or city and county, shall have authority, in their discretion, to parole at any time any child com-

mitted to, or ordered to attend, a parental school, except when such commitment shall be by judgment or order of a court; and when such commitment of any child shall be by judgment or order of a court, such court may, on the recommendation of the city superintendent of schools, or the board of education, make an order paroling such child, upon such terms and conditions as shall be specified in the order. The expense incurred by any city, or city and county, in purchasing or renting a school site, erecting or renting a building and equipping the same, for the maintenance of a parental school, shall be paid out of funds other than those collected for the maintenance of schools. The salaries of teachers and the expense for all school supplies in a parental school shall be paid out of the same funds from which similar salaries and expense are paid for primary and grammar schools, but all other expense incurred in the maintenance of such parental schools shall be paid out of the parental school fund.

§ 7. Whenever any board of education shall determine that it is necessary or expedient for the city or city and county to establish and maintain a parental school, said board shall furnish to the city council, or other governing body of such city or city and county, all necessary and required information and statistics, and if, after consideration, such city council or other governing body grants its consent for the establishment of such parental school, then the board of education shall furnish to the authorities whose duty it is to levy taxes in such city, or city and county, thirty days before the time specified by law for fixing the annual tax rate, an estimate of the cost of purchasing or renting a suitable site, and also an estimate of the cost of renting or erecting a suitable building and equipping the same for occupancy as a parental school, and the cost to the city or city and county, other than for salaries of teachers and for school supplies, of conducting the school for the remainder of the current school year. When, pursuant to such consent by such governing body, such estimates shall have been so made and furnished by the board of education of any city, or city and county, it is hereby made the duty of the authorities whose duty it shall be to levy taxes in such city, or city and county, at the time of levying the taxes, to levy a special tax upon all taxable property of said city, or city and county, sufficient in its judgment to provide the facilities requested by the board of education, and for which such estimates shall have been so furnished. It shall be the duty of the board of education, yearly, thereafter, to present to the authorities of the city, or city and county, whose duty it is to levy taxes, on or before the first Monday in July, an estimate of the moneys required for conducting the parental school for the school year, other than for the salaries of teachers and for school supplies. When such estimate shall have been so presented, it shall be the duty of the said authorities to levy a special tax upon the taxable property of said city, or city and county, sufficient to maintain such school for the year, exclusive of salaries of teachers and expense of school supplies. All taxes in this act provided for shall be computed, entered upon the tax roll and collected, in the same manner as other taxes are computed, entered and collected, and when collected shall be placed in a separate fund, to be known as the "parental school fund," and shall be paid out on the order of the board of education for the purposes set forth in this act; provided, that all moneys

so collected for the purchase of sites or buildings, or the erection or equipment of buildings for parental school purposes, shall be placed in a separate fund, to be known as the "parental school building fund," and shall be used solely for the purpose or purposes for which collected, except that after such purpose or purposes shall have been fully accomplished, the residue of such fund, if any, may be transferred to said parental school fund.

§ 8. Two or more school districts or cities may unite in the following manner, to form a joint district for the maintenance of a joint parental school. When any board of education or board of school trustees has secured, in the manner as set forth in section seven of this act, the consent of the legislative body of the city or school district, in which said board of education or board of school trustees holds office, for the union of two or more districts to form a joint parental school district, said board of education or board of trustees shall transmit such information to the board of supervisors of the county of which said city or school district or districts forms a part, setting forth at the same time the cities or districts with which said city or district seeks to unite for the maintenance of a joint parental school. When such information has been received by the board of supervisors from all the cities or school districts seeking to be united, it is hereby made the duty of the board of supervisors, by resolution, to declare such cities or school districts united for the maintenance of a joint parental school, to be known as the joint parental school district of (give the names of the school districts uniting). When the districts have been so united, the boards of education or boards of trustees of the cities or school districts so uniting shall appoint a board of trustees for the joint parental school district, to consist of five members, (unless the number of cities or school districts uniting exceeds five), who shall be appointed from the membership of the boards of the several districts or cities uniting, by the respective boards in approximate proportion to the census children between five and seventeen years of age, in the districts uniting; provided however, that each district shall be represented by at least one member on the board of trustees of the joint parental school district. The members so appointed, to serve for the remainder of the term of office for which they were elected on their respective boards of education or boards of trustees, and when vacancies occur on said board of trustees of joint parental school districts, they shall be filled by the board making the original appointment. The superintendent of schools of each of the cities or school districts uniting, shall be ex officio members of the board of trustees of the joint parental school district, without the right to vote. In the management of a parental school within a school district, city, or city and county, the right to transport pupils to and from school at public expense, when, in the judgment of the board of education, or board of school trustees, the interest of the pupil demands it, is hereby conferred upon such boards. All the powers and duties by any section of this act conferred or imposed upon the boards of school trustees or boards of education of any city, or city and county, in the management of, and the securing of, funds for a parental school within a city or school district, are hereby conferred upon and imposed upon the board of trustees of any joint parental school district in the management of and the securing of funds for the support of a joint parental school; provided however, that in estimating the expense of maintenance of a joint parental

school the amount of money needed for the payment of teachers' salaries and for the furnishing of school supplies, shall be included in the estimate of expenses; and provided further, that the estimates shall be transmitted to the board of supervisors of the county of which the joint parental school district forms a part. When such estimates shall have been so transmitted, it is hereby made the duty of the board of supervisors to levy a special tax upon the taxable property within the boundaries of the joint parental school district, sufficient to provide the facilities requested by the board of trustees of the joint parental school district, and for which such estimate shall have been furnished, and yearly thereafter when the estimates of the total expense of the maintenance of the joint parental school and increased facilities shall have been furnished the board of supervisors, it shall be the duty of said board to levy a special tax sufficient to maintain the school for the year. All taxes in this act provided shall be computed and entered upon the tax roll and collected in the manner prescribed for the collection of taxes in section seven of this act; provided, that all moneys so collected shall be collected by the county tax collector and apportioned to the credit of the joint parental school district, and placed in the fund for which they were specially collected. If for sites or buildings, to be placed in a fund known as the joint parental school building fund, to be used exclusively for the purposes for which they were collected, the same as set forth in section seven of this act. The board of trustees of joint parental school districts shall organize, by the election of one of their number as chairman, and by the election of a secretary who shall be the city superintendent of schools, or the secretary of a board of education or the clerk of one of the boards of education or boards of trustees of the cities, or school districts united, and such secretary shall serve without additional salary. All moneys in a joint parental school fund shall be paid out on the order of the board of trustees of the joint parental school district for the purposes herein set forth, and in the same manner that funds are paid from the ordinary school funds of a school district.

§ 9. All fines paid as penalties for the violation of any of the provisions of this act shall, when collected or received, be paid over by the justice or officer receiving the same to the treasurer of the city, or city and county, in which the offense was committed, to be placed to the credit of the parental school fund of such city, or city and county, if there be such a fund, otherwise to the credit of the general school fund of such city, or city and county, or to the county treasurer, to be placed to the credit of the school fund of the school district in which the offense was committed.

§ 10. Any parent or guardian of any deaf, dumb, or blind child, legally entitled to admission to said institution, shall send such child to said institution until such child shall have been therein for five years, or shall have reached the age of majority, unless such child shall be excused from such attendance by the board of education or board of trustees of the city, city and county, or school district in which such child resides, for the reason that the child's bodily or mental condition is such as to prevent or render inadvisable attendance at said institution, or for the reason that such child is receiving proper instruction at home or in some public or private school. Any parent or guardian failing to comply with the requirements of this section shall be guilty of a misdemeanor, and be punishable as provided in section two of this act.

§ 11. Any justice of the peace, or recorder of the city or city and county or any justice of the peace of the township in which the school district is located, or in which the offense is committed, shall have jurisdiction of all offenses committed under the provisions of this act.

§ 12. This act shall take effect and be in force from and after July first, nineteen hundred and three.

§ 13. An act entitled an act to enforce the educational rights of children, approved March twenty-eighth, eighteen hundred and seventy-four, and all acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

See former Act of 1873-4, 751, ch. DXVI.

CHILDREN—CRUELTY TO.

For the incorporation of societies for the prevention of cruelty to children.

(Stats. 1875-6, 830, ch. DXLIX.)

This statute, with others relating to cruelty, etc., to children, has been carried into the Civil Code by Stats. 1905, 590, ch. CDXXXIV. See **KERR'S CYC. CIVIL CODE** §§ 607-607g.

CHILDREN—FEEBLE MINDED.

The institution for care of feeble-minded children was established by Stats. 1885, 198, ch. CLVI, and the trustees were authorized to receive from the "California Association for the Care and Training of Feeble-Minded Children" the pupils then under the care of that association. As will be seen hereafter in this note, the "Home" first purchased property in Santa Clara County, but it was later established at Eldridge, in Sonoma County.

The legislature of 1903 placed this, among other institutions, under the control of the "commission in lunacy," and it is deemed sufficient here to cite the statutes relating to the former management of the Home, without publishing them at length. See **KERR'S CYC. POL. CODE** § 2145, subd. 6, and the general provisions associated with that section.

STATUTES—General government: 1887, 69, ch. LVII, repealing 1885, 198; 1889, 155, ch. CXLIX; 1901, 795, ch. CCXXXVII. The

Stats. of 1885, 198, and 1887, 69, also subsequent Stats. 1897, 251, as to epileptics, are considered in State vs. County of Sonoma, 139 Cal. 264, 266, 72 Pac. Rep. 1003.

Purchase of permanent site: Stats. 1889, 69, ch. LXXV.

People vs. Dunn, 80 Cal. 211, 212, 13 Am. St. Rep. 118, 22 Pac. Rep. 140; cited in **People vs. Counts**, 89 Cal. 15, 19, 26 Pac. Rep. 612.

These decisions relate particularly to the "title" of the act, in connection with § 34, art. IV, Constitution.

Sale of Santa Clara property.—See Stats. 1891, 123, ch. CXX, and 1903, 319, ch. CCXLI.

Admission of epileptics, etc.—See Stats. 1897, 251, ch. CLXXVIII; and see **KERR'S CYC. POL. CODE** § 2145.

Right of way over.—See Stats. 1893, 277, ch. CXC.

For general subject of children, consult **Schools; Vaccination.**

CHILDREN—LIQUORS.

To prevent the selling, giving, or delivering intoxicating liquors to minor children, and to prevent minor children visiting saloons or public houses where intoxicating liquors are sold.

(Stats. 1903, 319, ch. CCXL.)

This statute has been carried into the Penal Code by Stats. 1905, 673, ch. DXIV. See **KERR'S CYC. PEN. CODE** § 397b.

Former statutes upon this subject are: 1871-2, 231, ch. CLXXXVIII, and 1891, 91, ch. LXXXVII.

CHILDREN—ORPHANS.

To provide for the appointment of guardians of children maintained in any orphans' home or orphan asylum in this state.

(Stats. 1893, 203, ch. CLXXII.)

§ 1. When any orphan or half-orphan has been maintained in any orphans' asylum or orphans' home in the state of California for more than one year, the managers of said home or asylum shall be entitled to the guardianship of such child in preference to any other person; provided, however, that such managers shall not be appointed guardian of a minor child over fourteen years of age without its consent, nor shall this act preclude the court of competent jurisdiction from inquiring into the fitness of such managers for the guardianship of such children; but in exercising the power of the court to appoint guardians for minors, the managers of the home having the care of such child for more than one year shall, if there be no special reasons to the contrary in any particular case, be preferred in the guardianship of the person of the child to the parent so leaving the child, without good cause therefor being shown, under the care of said home for the said time.

§ 2. This act shall take effect immediately.

See **KERR'S CYC. CIVIL CODE** § 224, as amended in 1903, and § 246 *Ib.*, as amended by Stats. 1905, 728, ch. DLXII.

It is not clear that this statute has been entirely superseded by the new legislation.

CHILDREN—ORPHAN AND ABANDONED.

In relation to the care of orphan and abandoned children.

(Stats. 1873-4, 297, ch. CXCIX; amendment 1877-8, 82, ch. LXVII.)

The penal provisions of this statute, §§ 1, 2, are carried into the Penal Code by Stats. 1905, 758, ch. DLXVIII. See **KERR'S CYC. PEN. CODE** §§ 270-271a.

The remainder of the statute, §§ 3, 4, is carried into the Civil Code by Stats. 1905,

728, ch. DLXII. See **KERR'S CYC. CIVIL CODE** § 246 subd. 4.

See Stats. 1893, 203, ch. CLXXII, tit. Guardianship, post; and **KERR'S CYC. CIVIL CODE** § 224.

CHILDREN—SELLING, ETC.

Relating to children.

(Stats. 1877-8, 813, ch. DXXI.)

This statute, together with others, relating to societies for prevention of cruelty to children and animals, is carried into the

Civil Code by Stats. 1905, 590, ch. CDXXXIV, under a new title, XIIa of Part IV. See **KERR'S CYC. CIVIL CODE** §§ 607-607g.

CHILDREN—WRONGS TO.

For the protection of children and to prevent and punish certain wrongs to children.

(Stats. 1877-8, 812, ch. DXX.)

This statute, with others relating to cruelty to children and animals, and societies for prevention of same, has been carried into the Civil Code in a new title, XIIa of

Part IV, by Stats. 1905, 590, ch. CDXXXIV. See **KERR'S CYC. CIVIL CODE** §§ 607-607g.

Selling liquor to minors.—See **KERR'S CYC. PEN. CODE** § 397b.

CHINESE.

See Asiatics.

CIVIL RIGHTS.

See Rights of Persons.

CLEAR LAKE—LAKE COUNTY.

To declare Clear Lake, in Lake County, navigable.

(Stats. 1877-8, 630, ch. CCCCXXV.)

§ 1. Clear Lake, in Lake County, in the state of California, is hereby [declared] navigable. Nothing herein contained shall be deemed to interfere with rights of swamp or overflowed land owners and claimants around the margin of said lake to reclaim the same, as now authorized and provided for by law.

§ 2. This act shall take effect and be in force from and after its passage.

See **KERR'S CYC. POL. CODE** §§ 2348, 2349.

COAL MINES.

For the protection of coal mines and coal miners.

(Stats. 1873-4, 726, ch. CCCCXCVIII.)

§ 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

§ 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

§ 3. The owner or agent of every coal mine shall provide at least two shafts, or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; provided, that if a new tunnel, slope, or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

§ 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

§ 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the airways, the traveling ways, the pumps and sumps, the timbering, to see as the miners advance in their excavations that all

loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with and appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

§ 6. The overseer shall see that the hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine.

§ 7. The word "owner" in this act shall apply to lessee as well.

§ 8. For any injury to person or property occasioned by any violation of this act, or any wilful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction.

§ 9. For any wilful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; provided, that if such wilful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

§ 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected, by a competent boiler-maker, as often as once in three months.

§ 11. This act shall not apply to opening a new coal mine.

§ 12. This act shall take effect immediately.

See *Mining*, post.

CODE COMMISSION.

To create and establish a commission for revising, systematizing, and reforming the laws of this state, and for the appointment of the members of said commission, to be known as "The Commissioners for the Revision and Reform of the Law," and to prescribe their powers and duties; and to authorize the appointment of a secretary and stenographer therefor; and to provide for the compensation and expenses of said commission, secretary, and stenographer, and to appropriate money therefor.

(Stats. 1895, 345, ch. CCXXII; amended Stats. 1903, 479, ch. CCCLXII; amended Stats. 1905, 403, ch. CCCXLIII.)

§ 1. A commission consisting of one person, as hereafter designated, is hereby created and established, for the purpose of revising, compiling, creating, amending, systematizing, improving, and reforming the laws of this state.

§ 2. The member of said commission shall be known and designated as "The Commissioner for the Revision and Reform of the Law," and the term of office shall be two years from and after the first day of May, nineteen hundred and three. He shall be a member of the legal profession, who shall have, for more than five years prior to his appointment, been engaged in the practice of the law

in this state, and who shall have been admitted to practice before the supreme court, of this state.

§ 3. Said commissioner shall be appointed by the governor prior to the first day of May, nineteen hundred and three, and shall enter upon the performance of his duties on said first day of May, nineteen hundred and three. In case of a vacancy in said commission, by death or resignation, removal or otherwise, a successor to fill such vacancy, for the unexpired term, shall be appointed in like manner.

§ 4. The secretary of state shall, after the appointment of such commissioner, immediately notify such appointee thereof, and issue to such appointee a commission under the great seal of this state, notifying him of the passage of said act, and of his appointment by the governor. Such appointee shall, upon receiving said notice of his appointment, if he accept the same, take and subscribe an oath of office, which shall be filed in the office of the secretary of state, and shall, on the first day of May, nineteen hundred and three, enter upon the discharge of his duties.

§ 5. Said commissioner shall select and adopt a suitable seal for the authentication of his acts, records, and proceedings. He shall select and appoint a stenographer, who shall act as secretary of said commission, to hold office during the pleasure of said commissioner, who shall assist in the work to be performed and under the supervision of the commissioner.

§ 6. 1. It shall be the duty of said commissioner to revise and examine the parts of the Code of Civil Procedure, the Political Code, the Civil Code, and the Penal Code of the State of California, not already revised, under the provisions of an act of which this act is amendatory; to note all decisions of the supreme court upon sections of the codes herein specified, and to present to the legislature, at its next session, all sections of the codes which have been declared unconstitutional and have, for any reason, been declared by the supreme court as inoperative; and to suggest any such legislation as will remedy defects in existing laws by reason of decisions of the supreme court or otherwise; to make and compile an index of all the laws of California, not already completed by the present commission; and to revise and compile a new county government act, in accordance with and having regard to decisions of the supreme court thereon.

2. To revise and examine all the statutes of this state that have been or shall hereafter be passed by the legislature thereof and published by the state.

3. He shall ascertain, determine, and designate, according to his best judgment, those statutes now in force, and those expressly or by implication repealed, and report the same to the next legislature.

4. He shall note and designate the errors, defects, or omissions, verbal, grammatical, or otherwise, and suggest what will be necessary to supply, correct, or amend the same, and such improvements as shall introduce precision and clearness into the wording of the codes and statutes.

5. All or any of the reports, records, or proceedings of said commission shall be printed by the state printer, on the requisition of said commissioner, when so ordered and directed by said commissioner.

6. Said commissioner shall have the power to order the state printer to print and deliver to him such number as said commissioner may designate of any report, record, or proceedings of said commission.

7. Said commissioner, shall attend at the capital, during the sitting of said session of the legislature, and act as legislative counsel or adviser, in drafting or passing upon the form of any bill, or proposed bill, pending or to be introduced before the legislature; and also, when requested, give advice to said legislature, or such committee, as to the form of any proposed legislation, and its effect upon existing laws, and as to whether said bill, as drawn and presented, is so constructed and worded as to carry out the purpose intended, and shall advise as to the constitutionality thereof.

8. Thirty days prior to every session of the legislature, said commissioner shall make and file with the secretary of state a report of his transactions relating to legislative matters, or which would give any information or knowledge to said legislature as to legislation in the past, and as to the policy for future legislation. And he shall also report to said legislature such suggestions as he may deem proper for the promotion of the public welfare and the best interests of the state, or any locality or citizens thereof, and file therewith schedules or exhibits, showing the form or substance of all proposed legislation which he may recommend. And he shall suggest all such improvements as shall conduce to precision and clearness in the wording of the codes and statutes, and propose such measures as may be necessary to improve or give unity and completeness to the system of the laws of this state. Said reports, schedules, and exhibits shall be printed by the state printer, upon the requisition and under the supervision of the commissioner. They shall be so printed as to show, in the readiest manner, the changes proposed by the commissioner, and in those cases wherein he shall recommend the repeal of a law, and propose a substitute therefor, such law and substitute shall be printed in the manner most convenient for comparison; and his report, when so printed, shall be mailed to every member who has been elected to sit in such legislature.

9. Said commissioner shall, at all such times as he may designate by rules and regulations which he may adopt, hear in public such printed or oral arguments as may be addressed to him, for or against any proposed or existing legislation, and a record of all proceedings shall be kept and preserved by the secretary of said commission.

§ 7. 1. Said commissioner shall receive for his services, from the state, the sum of thirty-six hundred dollars per annum; such compensation shall be paid in the same manner as the salaries of the justices of the supreme court are now paid.

2. The stenographer of the commission shall receive the sum of one hundred dollars (\$100) per month, payable in like manner as the salary is paid to the commissioner.

3. The expenses incurred by said commission, or commissioner, exclusive of salaries, shall be set forth in detail in an itemized statement, and thereupon a requisition shall be made by said commissioner upon the state controller, accompanied by the sworn certificate of the commissioner that the services have been performed and the materials used or things furnished, and that said sums are justly due.

4. Said state controller is hereby directed to draw his warrant on the treasurer for the payment of said salaries, when due and payable, as herein provided, and also for such sums as are covered by said requisitions, and the

treasurer is hereby directed to pay the same out of any money not otherwise appropriated.

§ 8. This act shall take effect and be in force from and after the fifteenth day of April, nineteen hundred and three; provided, however, that the commissioners, appointed under the act of March twenty-eighth, eighteen hundred and ninety-five, of which this act is amendatory, shall hold office and perform the duties prescribed by said act, to and including the thirtieth day of April, nineteen hundred and three, and receive the compensation prescribed by said act, of which this act is amendatory.

§ 9. The commission hereby created shall cease to exist and this act shall become inoperative on and after the first day of May, nineteen hundred and seven. [Amendment, Stats. 1905, 403.]

§ 10. All acts and parts of acts in conflict with this act are hereby repealed.

The Statute of 1903, 479, purports to amend the Statute of 1895, 341, but in fact it supersedes the former statute in every section, hence its omission here.

COLLATERAL INHERITANCE TAX.

To establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of lien arising hereunder; to repeal an act entitled "An act to establish a tax on collateral inheritances, bequests, and devises, to provide for the collection, and to direct the disposition of its proceeds," approved March twenty-three, eighteen hundred and ninety-three, and all amendments thereto, and all acts and parts of acts in conflict with this act.

(Stats. 1905, 341, ch. CCCXIV.)

§ 1. All property which shall pass, by will or by the intestate laws of this state, from any person who may die seized or possessed of the same while a resident of this state, or if such decedent was not a resident of this state at the time of death, which property, or any part thereof, shall be within this state, or any interest therein, or income therefrom, which shall be transferred by deed, grant, sale, or gift, made in contemplation of the death of the grantor, vendor or bargainor, or intended to take effect in possession or enjoyment after such death, to any person or persons, or to any body politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled, in possession or expectancy, to any property, or to the income thereof, shall be and is subject to a tax hereinafter provided for, to be paid to the treasurer of the proper county, as hereinafter directed, for the use of the state; and such tax shall be and remain a lien upon the property passed or transferred until paid and the person to whom the property passes or is transferred and all administrators, executors, and trustees of every estate so transferred or passed shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed. The tax so imposed shall be upon the market value of such property at the rates hereinafter prescribed and only upon the excess over the exemptions hereinafter granted.

Whenever any person or corporation shall exercise a power of appointment

derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omissions or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

§ 2. When the property or any beneficial interest therein so passed or transferred exceeds in value the exemption hereinafter specified and shall not exceed in value twenty-five thousand dollars the tax hereby imposed shall be:

(1.) Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal issue, lineal ancestor of the decedent or any child adopted as such in conformity with the laws of this state, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth birthday, and was continuous for said ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, at the rate of one per centum of the clear value of such interest in such property.

(2.) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or the husband of a daughter of the decedent, at the rate of one and one half per centum of the clear value of such interest in such property.

(3.) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother or a descendant of a brother or sister of the father or mother of the decedent, at the rate of three per centum of the clear value of such interest in such property.

(4.) Where the person or persons entitled to any beneficial interests in such property shall be the brother or sister of the grandfather or grandmother or a descendant of the brother or sister of the grandfather or grandmother of the decedent, at the rate of four per centum of the clear value of such interest in such property.

(5.) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of five per centum of the clear value of such interest in such property.

§ 3. The foregoing rates in section two are for convenience termed the primary rates. When the market value of such property or interest exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(1.) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, one and one half times the primary rates.

(2.) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, two times the primary rates.

(3.) Upon all in excess of one hundred thousand dollars and up to five hundred thousand dollars, two and one half times the primary rates.

(4.) Upon all in excess of five hundred thousand dollars, three times the primary rates.

§ 4. The following exemptions from the tax are hereby allowed:

(1.) All property transferred to societies, corporations, and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy, to any such property or to the income thereof shall be exempt.

(2.) Property of the clear value of ten thousand (\$10,000.00) dollars transferred to the widow or to a minor child of the decedent, and of four thousand (\$4,000.00) dollars transferred to each of the other persons described in the first subdivision of section two shall be exempt.

(3.) Property of the clear value of two thousand (\$2,000.00) dollars transferred to each of the persons described in the second subdivision of section two shall be exempt.

(4.) Property of the clear value of one thousand five hundred (\$1,500.00) dollars transferred to each of the persons described in the third subdivision of section two shall be exempt.

(5.) Property of the clear value of one thousand (\$1,000.00) dollars transferred to each of the persons described in the fourth subdivision of section two shall be exempt.

(6.) Property of the clear value of five hundred (\$500.00) dollars transferred to each of the persons and corporations described in the fifth subdivision of section two shall be exempt.

§ 5. When any grant, gift, legacy, or succession upon which a tax is imposed by section one of this act shall be in estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section fourteen of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and, together with the interest thereon, shall be and remain a lien on said property until the same is paid; provided, that the person or persons, or body politic or corporate, beneficially interested in the property chargeable with said tax, may elect not to pay the same until they shall come into the actual possession or enjoyment of such property, and in that case such person or persons, or body politic or corporate,

shall execute a bond to the people of the state of California, in a penalty of twice the amount of the tax arising upon personal estate, with such sureties as the said superior court may approve, conditioned for the payment of said tax, and interest thereon, at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the county clerk of the proper county; provided further, that such person shall make a full and verified return of such property to said court, and file the same in the office of the county clerk within one year from the death of the decedent, and within that period enter into such security, and renew the same every five years.

§ 6. Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devises, or residuary legacies exceed what would be a reasonable compensation for their services, such excess over and above the exemptions herein provided for shall be liable to said tax; and the superior court in which the probate proceedings are pending shall fix the compensation.

§ 7. All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within eighteen months, no interest shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; provided, that if said tax is paid within six months from the accruing thereof a discount of five per centum shall be allowed and deducted from said tax. And in all cases where the executors, administrators, or trustees do not pay such tax within eighteen months from the death of the decedent, they shall be required to give a bond in the form and to the effect prescribed in section five of this act for the payment of said tax, together with interest.

§ 8. The penalty of ten per centum per annum imposed by section seven hereof, for the non-payment of said tax, shall not be charged in cases where, in the judgment of the court, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of eighteen months from the death of the decedent; and in such cases only seven per centum per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed, after which ten per centum interest per annum shall again be charged until the tax is paid; but litigation to defeat the payment of the tax shall not be considered necessary litigation.

§ 9. Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon, upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator, or trustee shall collect said tax

from the distributee thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the superior court to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

§ 10. All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of the estate, and the amount of said tax shall be paid as hereinafter directed.

§ 11. Every sum of money retained by an executor, administrator, or trustee, or paid into his hands, for any tax on property, shall be paid by him, within thirty days thereafter, to the treasurer of the county in which the probate proceedings are pending, and the said treasurer shall give, and every executor, administrator, or trustee shall take, duplicate receipts for such payment, one of which receipts said executor, administrator, or trustee shall immediately send to the controller of the state, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and said controller shall seal said receipt with the seal of his office, and countersign the same, and return it to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts; and an executor, administrator, or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such tax, nor shall said estate be distributed, unless he shall produce a receipt so sealed and countersigned by the controller, or a copy thereof, certified by him, and file the same with the court.

§ 12. Whenever any debts shall be proven against the estate of a decedent after the payment of legacies or distribution of property from which the said tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir, or next of kin, a proportion of the tax so deducted or paid shall be repaid to him by the executor, administrator, or trustee, if the said tax has not been paid to the county treasurer or to the state controller, or by them, if it has been so paid.

§ 13. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county on the transfer thereof. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control securities, deposits, or other assets of a decedent, including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended delivery or transfer be served upon the county treasurer at least ten days prior to said delivery or transfer; nor shall any such safe deposit company, trust company, corporation, bank or other institution, person or persons deliver or trans-

fer any securities, deposits or other assets of the estate of a non-resident decedent including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer, without retaining a sufficient portion or amount thereof to pay any tax and penalty which may thereafter be assessed on account of the delivery or transfer of such securities, deposits, or other assets including the shares of the capital stock of or other interests in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer, under the provisions of this act, unless the county treasurer consents thereto in writing. And it shall be lawful for the said county treasurer, personally, or by representative, to examine said securities, deposits or assets at the time of such delivery or transfer. Failure to serve such notice and to allow such examination, and to retain a sufficient portion or amount to pay such tax and penalty as herein provided, shall render said safe deposit company, trust company, corporation, bank or other institution, person or persons liable to the payment of two times the amount of the tax and penalty due or thereafter to become due upon said securities, deposits or other assets, including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer; and the payment as herein provided shall be enforced in an action brought in accordance with the provisions of section seventeen of this chapter.

§ 14. When the value of any inheritance, devise, bequest, or other interest subject to the payment of said tax is uncertain, the superior court in which the probate proceedings are pending, on the application of any interested party, or upon its own motion, shall appoint some competent person as appraiser, as often as and whenever occasion may require, whose duty it shall be forthwith to give such notice, by mail, to all persons known to have or claim an interest in such property, and to such persons as the court may by order direct, of the time and place at which he will appraise such property, and at such time and place to appraise the same and make a report thereof, in writing, to said court, together with such other facts in relation thereto as said court may by order require to be filed with the clerk of said court; and from this report the said court shall, by order, forthwith assess and fix the market value of all inheritances, devises, bequests, or other interests, and the tax to which the same is liable, and shall immediately cause notice thereof to be given, by mail, to all parties known to be interested therein; and the value of every future or contingent or limited estate, income, or interest shall, for the purposes of this act, be determined by the rule, method, and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities, and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five per centum per annum; and the insurance commissioner shall, on the application of said court, determine the value of such future or contingent or limited estate, income, or interest, upon the facts contained in such report, and certify the same to the court, and his certificate shall be conclusive evidence that the method of computation adopted therein is correct. The said appraiser

shall be paid by the county treasurer out of any funds that he may have in his hands on account of said tax, on presentation of a sworn itemized account and on the certificate of the court, at the rate of five dollars per day for every day actually and necessarily employed in said appraisement, together with his actual and necessary traveling expenses.

§ 15. Any appraiser appointed by virtue of this act who shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay said tax, or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars, or imprisoned in the county jail ninety days, or both, and in addition thereto the court shall dismiss him from such service.

§ 16. The superior court in the county in which is situate the real property of a decedent who was not a resident of the state, or if there be no real property, then in the county in which any of the personal property of such non-resident is situate, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act, and the court first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other.

§ 17. If it shall appear to the superior court, or judge thereof, that any tax accruing under this act has not been paid according to law, it shall issue a citation, citing the persons known to own any interest in or part of the property liable to the tax or any person or corporation liable under the law for the payment of said tax to appear before the court on a day certain, not more than ten weeks after the date of such citation, and show cause why said tax should not be paid. The service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, and the enforcement of the determination or decree, shall conform to the provisions of chapter twelve, of title eleven, of part three of the Code of Civil Procedure; and the clerk of the court shall, upon the request of the district attorney or treasurer of the county, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the state, without fee, in the same manner and with the same effect as provided by section six hundred and seventy-four of said Code of Civil Procedure for filing a transcript of an original docket.

§ 18. Whenever the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons interested in the property liable to said tax to pay the same, he shall notify the district attorney of the proper county, in writing, of such failure to pay such tax, and the district attorney so notified, if he have probable cause to believe a tax is due and unpaid, shall prosecute the proceeding in the superior court, as provided in section seventeen of this act, for the enforcement and collection of such tax.

§ 19. The controller of state shall furnish to each county clerk a book, which shall be a public record, and in which he shall enter the name of every decedent upon whose estate an application has been made to the superior court for the issuance of letters of administration, or letters testamentary, or ancillary letters,

the date and place of death of such decedent, the estimated value of his real and personal property, the names, places of residence, and relationship to him of his heirs at law, the names and places of residence of the legatees and devisees in any will of any such decedent, the amount of each legacy and the estimated value of any real property devised therein, and to whom devised. These entries shall be made from the data contained in the papers filed on any such application, or in any proceeding relating to the estate of the decedent. The county clerk shall also enter in such book the amount of personal property of any such decedent, as shown by the inventory thereof when made and filed in his office, and the returns made by any appraiser appointed by the court under this statute, and the value of annuities, life estates, terms of years, and other property of such decedent, or given by him in his will or otherwise, as fixed by the superior court, and the tax assessed thereon, and the amounts of any receipts for payment of any tax on the estate of such decedent under this statute filed with him. The county clerk shall, on the first day of January, April, July and October of each year make a report, in duplicate, upon forms to be furnished by the controller of state, containing all the data and matters required to be entered in such book, and also of the property from which, or the party from which, he has reason to believe the tax under this act is due and unpaid, one of which shall be immediately delivered to the county treasurer and the other transmitted to the state controller.

§ 20. Whenever the superior court of any county shall certify that there was probable cause for issuing a citation and taking the proceedings specified in section seventeen of this act, the state treasurer shall pay, or allow, to the treasurer of any county, all expenses incurred for services of citation, and his other lawful disbursements that have not otherwise been paid.

§ 21. The treasurer of each county shall collect and pay the state treasurer all taxes that may be due and payable under this act, who shall give him a receipt therefor; of which collection and payment he shall make a report, under oath, to the controller, between the first and fifteenth days of May and December of each year, stating for what estate paid, and in such form and containing such particulars as the controller may prescribe; and for all such taxes collected by him and not paid to the state treasurer by the first day of June and January of each year he shall pay interest at the rate of ten per centum per annum.

§ 22. The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year under this act, in addition to his salary or fees now allowed by law, three per centum on the first fifty thousand dollars so paid and accounted for by him, one and one half per centum on the next fifty thousand dollars so paid and accounted for by him, and one half of one per centum on all additional sums so paid and accounted for by him.

§ 23. The treasurer of each county, in his discretion, for the better furtherance of the purposes of this act, shall be allowed to employ such special attorney or attorneys, as he may deem necessary, who shall have all the authority conferred upon the district attorney by sections seventeen and eighteen of this act, and such attorney shall be paid for his services out of the fees now allowed the treasurer as provided in section twenty-two of this act, and that in no case shall such compensation exceed the per centum allowed as such fees.

§ 24. Any person, or body politic or corporate, shall, upon payment of the sum of fifty cents, be entitled to a receipt from the county treasurer of any county, or a copy of the receipt, at his option, that may have been given by said treasurer for the payment of any tax under this act, to be sealed with the seal of his office, which receipt shall designate on what real property, if any, of which any decedent may have died seized, said tax has been paid, and by whom paid, and whether or not it is in full of said tax; and said receipt may be recorded in the clerk's office in the county in which said property is situate, in a book to be kept by said clerk for such purpose, which shall be labeled "Inheritance tax."

§ 25. All taxes levied and collected under this act, up to the amount of two hundred and fifty thousand dollars annually, shall be paid into the treasury of the state, for the uses of the state school fund, and all taxes levied and collected in excess of two hundred and fifty thousand dollars annually shall be paid into the state treasury to the credit of the general fund thereof.

§ 26. Every officer who fails or refuses to perform, within a reasonable time, any and every duty required by the provisions of this act, or who fails or refuses to make and deliver within a reasonable time any statement or record required by this act, shall forfeit to the state of California the sum of one thousand dollars, to be recovered in an action brought by the attorney-general in the name of the people of the state on the relation of the controller.

§ 27. An act entitled "An act to establish a tax on collateral inheritances, bequests and devises, to provide for its collection, and to direct the disposition of the proceeds," approved March twenty-three, eighteen hundred and ninety-three, and all amendments thereto, and all acts and parts of acts in conflict with this act are hereby expressly repealed.

§ 28. The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, or donor passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state. The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein described. The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, or donor.

§ 29. In all cases where any tax has become or shall hereafter become a lien upon any property under or by virtue of any of the provisions of this act the district attorney of the county in which the estate of the decedent mentioned in this act is being administered or has been administered in probate proceedings, may, whenever any property of said estate has been distributed without the payment to the state of all or any part of the taxes payable on account thereof under this act, bring and prosecute an action or actions in the name of the state as plaintiff, for the purpose of enforcing such lien or liens against all or any of the property subject thereto. In any such action the owner of any property or of any interest in property against which the lien of any such tax is sought to be enforced, and any predecessor in interest of any such owner whose title or

interest was deraigned through any such decedent by will or succession or by decree of distribution of the estate of such decedent, and any lienor or encumbrancer subsequent to the lien of such tax may be made a party defendant. The enumeration in this section of the persons who may be made defendants shall not be deemed to be exclusive, but the joinder or non-joinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases.

(a) Actions may be brought against the state for the purpose of quieting the title to any property, against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes under this act. In any such action, the plaintiffs may be any administrator or executor of the estate or will of any decedent, whether the said estate shall have been fully administered and the estate settled and closed or not, and any heir, legatee or devisee of any such decedent, or trustee of the estate or of any part of the estate of such decedent, or distributee of the estate or of any part of the estate of any such decedent, and any assignee, grantee or successor in interest of any such persons, and all or any other persons who might be made parties defendant in any action brought by the state under the provisions of this section, and notwithstanding that all or any of the persons enumerated in this section shall or may have assigned, granted, conveyed or otherwise parted with all or any interest in or title to the property, or any thereof, involved in any such claim of lien before the commencement of such action. All or any of the persons in this action enumerated may be joined or united as parties plaintiff. The enumeration in this section of the persons who may be made parties shall not be deemed to be exclusive, but the joinder or non-joinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases. In all cases any person who might properly be a party plaintiff in any such action who refuses to join as plaintiff may be made a defendant.

(b) All actions under this section shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

(c) Service of summons in the actions brought against the state shall be made on the secretary of state and on the district attorney of the county in which the estate of the decedent mentioned herein is being administered, or has been administered in probate proceedings, and it shall be the duty of said district attorney to defend all such actions.

(d) The procedure and practice in all actions brought under this section, except as otherwise provided in this act, shall be governed by the provisions of the Code of Civil Procedure in relation to civil actions, so far as the same shall or may be applicable, including all provisions relating to motions for new trials and appeals.

(e) The remedies provided in this section shall be in addition to and not exclusive of any remedies provided in the sections preceding this section.

§ 30. This act shall take effect and be in force from and after July first, nineteen hundred and five.

Former acts superseded.—It is assumed that the foregoing statute fully supersedes the former Stats. 1893, 193, ch. CLXVIII, amended 1895, 33; 1897, 77; 1899, 101; 1903, 55, 268.

Decisions.—The following decisions affecting the former enactments, particularly §§ 1, 2, 4, 20, are noted: In re Estate Wilmerding, 117 Cal. 281, 283, 49 Pac. Rep. 181; In re Estate Stanford, 126 Cal. 112, 114, 54 Pac. Rep. 259, 58 Pac. Rep. 462, 45 L. R. A. 788; In re Estate Mahoney, 133 Cal. 180, 85 Am. St. Rep. 155, 65 Pac. Rep. 389; In re Estate Johnson, 139 Cal. 532, 534, 96 Am. St. Rep. 161, 73 Pac. Rep. 424; In re Estate Winchester, 140 Cal. 468, 74 Pac. Rep. 10; In re Estate Campbell, 143 Cal. 623, 626, 77 Pac. Rep. 674.

Same—Section twenty.—County of San Diego vs. Schwartz, 145 Cal. 49, 50-52, 78 Pac. Rep. 231.

CHARITABLE CORPORATIONS, FOREIGN—Statute imposing inheritance tax upon, as to property received by them by gift, bequest, or devise, constitutional.—Humphreys vs. State, 70 Ohio St. 67, 101 Am. St. Rep. 888, 70 N. E. Rep. 957. See In re Estate Prime, 136 N. Y. 347, 32 N. E. Rep. 1091, 18 L. R. A. 713; In re Estate Balleis, 144 N. Y. 132, 38 N. E. Rep. 1007.

CONSTITUTIONALITY OF INHERITANCE-TAX LAW.—See Mager vs. Grima, 49 U. S. (8 How.) 490, 493, bk. 12 L. ed. 1168; Horn Silver Min. Co. vs. New York, 143 U.

S. 305, bk. 36 L. ed. 164, 12 Sup. Ct. Rep. 403; United States vs. Perkins, 163 U. S. 625, bk. 41 L. ed. 287, 16 Sup. Ct. Rep. 1073; Eidman vs. Martinez, 184 U. S. 578, bk. 46 L. ed. 697, 22 Sup. Ct. Rep. 515.

See monographic note 41 Am. St. Rep. 580-585; brief in 50 L. R. A. 92.

INHERITANCE TAX IS NOT ON PROPERTY, BUT ON THE SUCCESSION.—In re Estate Dows, 167 N. Y. 227, 88 Am. St. Rep. 509, 60 N. E. Rep. 439, 52 L. R. A. 433.

See 28 L. R. A. 178; 39 L. R. A. 170.

ON LANDS PLACED IN PARTNERSHIP.—People vs. Moir, 207 Ill. 180, 99 Am. St. Rep. 205, 69 N. E. Rep. 905.

PROPERTY CONVEYED IN LIFETIME subject to.—People vs. Moir, 207 Ill. 180, 99 Am. St. Rep. 205, 69 N. E. Rep. 905.

Illinois inheritance-tax law.—See People vs. Moir, 207 Ill. 180, 99 Am. St. Rep. 205, 69 N. E. Rep. 905.

Iowa inheritance-tax law.—See Gilbertson vs. Ballard (Iowa Oct. 26, 1904), 101 N. W. Rep. 108.

Maine inheritance-tax law.—See State vs. Hamlin, 86 Me. 495, 41 Am. St. Rep. 569, 30 Atl. Rep. 76.

New York inheritance-tax law.—See In re Estate Prime, 136 N. Y. 347, 32 N. E. Rep. 1091, 18 L. R. A. 713; In re Estate Balleis, 144 N. Y. 132, 38 N. E. Rep. 1007.

Ohio inheritance-tax law.—See Humphreys vs. State, 70 Ohio St. 67, 101 Am. St. Rep. 888, 70 N. E. Rep. 957.

COLLEGES—LAND DONATIONS.

Expressing assent of the state of California to the act of Congress, approved August thirtieth, eighteen hundred and ninety, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress, approved July second, eighteen hundred and sixty-two," and to the purposes of the grants of moneys authorized thereby, and to all the provisions thereof.

(Stats. 1891, 458, ch. CCXLIII.)

§ 1. The state of California hereby assents to the purposes of the grants of moneys authorized by the act of Congress, approved August thirtieth, eighteen hundred and ninety, and to all the provisions thereof, of which act the following is a copy:

An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress, approved July second, eighteen hundred and sixty-two.

Be it enacted by the senate and house of representatives of the United States of America, in Congress assembled, That there shall be, and hereby is, annually appropriated out of any money in the treasury not otherwise appropriated,

arising from the sales of public lands, to be paid as hereinafter provided, to each state and territory, for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two, the sum of fifteen thousand dollars for the year ending June thirtieth, eighteen hundred and ninety, and an annual increase of the amount of such appropriation thereafter for ten years, by an additional sum of one thousand dollars over the preceding year; and the annual amount to be paid thereafter to each state and territory shall be twenty-five thousand dollars to be applied only to instruction in agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction; provided, that no money shall be paid out under this act to any state or territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act, if the funds received in such state or territory be equitably divided as hereinafter set forth; provided, that in any state in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is now aided by such state from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money heretofore under the act to which this act is an amendment, the legislature of such state may propose and report to the secretary of the interior a just and equitable division of the fund to be received under this act, between one college for white students, and one institution for colored students established as aforesaid, which shall be divided into two parts, and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act, and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty-two; and the fulfilment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

§ 2. That the sums hereby appropriated to the states and territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of July of each year, by the secretary of the treasury, upon the warrant of the secretary of the interior, out of the treasury of the United States, to the state or territorial treasurer, or to such officer as shall be designated by the laws of such state or territory to receive the same, who shall, upon the order of the trustees of the college or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges, or other institutions entitled to receive the same, and such treasurers shall be required to report to the secretary of agriculture, and to the secretary of the interior, on or before the first day of September of each year, a detailed statement of the amount so received, and of its disbursement. The grants of moneys authorized by this act are made subject to the legislative assent of the

several states and territories to the purpose of said grants; provided, that payments of such instalments of the appropriation herein made as shall become due to any state before the adjournment of the regular session of legislature meeting next after the passage of this act, shall be made upon the assent of the governor thereof, duly certified to the secretary of the treasury.

§ 3. That if any portion of the moneys received by the designated officer of the state or territory, for the further and more complete endowment, support and maintenance of colleges, or institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the state or territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such state or territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the secretary of agriculture, as well as to the secretary of the interior, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their costs and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted, by mail, free, to all other colleges further endowed under this act.

§ 4. That on or before the first day of July in each year, after the passage of this act, the secretary of the interior shall ascertain and certify to the secretary of the treasury as to each state and territory, whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which, thereupon, each is entitled, respectively, to receive. If the secretary of the interior shall withhold a certificate from any state or territory of its appropriation, the facts and reasons therefor shall be reported to the president, and the amount involved shall be kept separate in the treasury until the close of the next Congress, in order that the state or territory may, if it should so desire, appeal to Congress from the determination of the secretary of the interior. If the next Congress shall not direct such sum to be paid, it shall be covered into the treasury. And the secretary of the interior is hereby charged with the proper administration of this law.

§ 5. That the secretary of the interior shall annually report to Congress the disbursements which have been made in all the states and territories, and also whether the appropriation of any state or territory has been withheld, and if so, the reasons therefor.

§ 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act. [Approved August 30, 1890.]

COLTON HALL (MONTEREY).

To provide for the appointment of a board of Colton Hall trustees, and for the leasing of the Colton Hall property, and providing for an appropriation for the preservation, protection, and improvement of said property.

(Stats. 1903, 435, ch. CCCXIV.)

Whereas, The historic landmarks of California, so closely associated and identified with the state's early history, are rapidly disappearing; and

Whereas, Colton Hall at Monterey, one of the oldest and most valuable of these landmarks, in which building convened California's first constitutional convention, is greatly in need of extensive repairs; therefore, be it enacted that

§ 1. The governor shall appoint three trustees, to be known as the board of Colton Hall trustees, two of whom at least shall be residents of the city of Monterey, state of California; and the governor shall designate at the time of such appointment their respective terms of office in accordance with the following classification, viz.: two of them shall serve for two years, and one of said trustees shall serve for four years, from the time of his appointment. Their successors shall be appointed by the governor and shall hold their office for the term of four years and until their successors are appointed and qualified. The said trustees shall qualify by taking the usual oath of office.

§ 2. The said board of Colton Hall trustees are hereby authorized to accept from the city of Monterey, at a rental of not more than one dollar per year, a lease of not less than ten years of the site and grounds known as the Colton Hall property; the same during the term of said lease to be under the exclusive management and control of said board of Colton Hall trustees and the state of California as a state institution, and which said property is particularly described as that certain lot of land situated on the westerly side of Pacific Street, in the city of Monterey, county of Monterey, state of California, bounded south by the lands of Mrs. C. Underwood, north by King Street and Pinto lot, and west by Gordon Street.

§ 3. The said board of Colton Hall trustees shall provide for the preservation, protection, and improvement of the said Colton Hall property in such way and manner as in their judgment may seem best and proper. Said board of trustees shall immediately upon their appointment organize by the election of a president, a secretary, and a treasurer from their number, which officers shall serve without compensation; and the president and secretary are hereby authorized when empowered by said board to do and perform all things pertaining to the duties of said board.

§ 4. The sum of one thousand five hundred (\$1,500) dollars, five hundred (\$500) dollars of which shall be available for the purposes hereinbefore set forth immediately after the passage of this act, and the remaining one thousand (\$1,000) dollars, in the fifty-fifth fiscal year, is hereby appropriated out of the general fund of the state treasury for the purpose of carrying out the provisions of section three of this act. The controller is hereby authorized to draw his warrant in favor of said board for the money herein made payable, and the treasurer is directed to pay the same.

§ 5. This act shall go into effect immediately.

See **Historic Property**.

COMMISSIONER OF TRANSPORTATION.

To create the office of commissioner of transportation, and to define its powers and duties; to fix the maximum charges for transporting passengers and freights on certain railroads, and to prevent extortion and unjust discrimination thereon.

(Stats. 1877-8, 969, ch. DCXLI.)

Chapter Two. Extortions, Discriminations, Forfeitures, and Penalties.

§ 1. A railroad company shall be deemed guilty of extortion in the following cases:

First—When it shall wilfully charge, demand, or receive from any passenger, as his fare from one station or place to another, any greater sum than is specified as the fare between such stations or places, for the same class of passage and in the same direction, in its tariff of fares on file with the commissioner of transportation.

Second—When it shall wilfully charge, demand, or receive from any person or persons, as the rate of freight on goods or merchandise, any greater sum than is specified as the rates for the like quantity of goods or merchandise of the same class, between the same places, and in the same direction, in its printed tariff of freights on file with said commissioner.

Third—When it shall wilfully charge, collect, or receive from any person or persons a greater amount of rate of toll, or compensation, than it shall at the same time charge, collect, or receive from any other persons for receiving, handling, storing, or delivering freight of the same class and like quantity at the same place.

Fourth—When it shall wilfully charge, demand, or receive from any person or persons any greater sum for passage or freight than from any other person or persons, between the same places, in the same direction, for the same class of passage, or for the like quantity of goods of the same class.

Fifth—When it shall wilfully charge, demand, or receive as compensation for receiving, storing, handling, or delivering, or for transporting any lot of goods, or merchandise any greater sum than it shall, by or through any of its authorized agents, wherever situated, have agreed to charge for such services previously to the performance thereof.

§ 2. A railroad company shall be deemed guilty of unjust discrimination in the following cases:

First—When it shall directly or indirectly wilfully charge, demand, or receive from any person or persons any less sum for passage or freight than from any other person or persons (except as in this act herein provided), at the same time, between the same places, and in the same direction, for the like class of passage, or for the like quantity of goods of the same class.

Second—When it shall directly or indirectly wilfully charge, demand, or receive from any person or persons, as compensation for receiving, handling, storing, or delivering any lot of goods or merchandise, any less sum than it shall charge, collect, or receive from any other person for the like service, to a like quantity of goods of the same class, at the same place.

§ 3. It shall be unlawful for any such railroad company to grant free passes for travel within this state, except to the following persons:

First—Directors, officers, agents, and employees of the company, and their families.

Second—Officers, and agents, and railroad contractors of other railroads, and telegraph, express, stage, and steamboat or steamship companies.

Third—Destitute persons.

Fourth—The commissioner of transportation, and his secretary and employees, when traveling in the discharge of their official duties.

Fifth—Public messengers, troops, and other persons who are, under existing laws, or any contract of such railroad company with this state, to be transported free of charge.

Every such railroad company shall keep a record of all free passes issued by it, except such as are issued by it to officers, agents, employees, and their families, and of the several classes thereof, and of the number of times each pass shall be used, and shall report the same to the commissioner of transportation whenever required.

§ 4. If any such railroad company shall be guilty of extortion, as defined in section one of this chapter, it shall forfeit and pay to the person or persons aggrieved three times the amount of the damages sustained by him or them, together with the costs of suit, to be recovered in any court of competent jurisdiction.

§ 5. If any such railroad company shall be guilty of unjust discrimination, as defined in section two of this chapter, it shall forfeit and pay the sum of one thousand dollars for each offense.

§ 6. If any such railroad company issues free passes to any person or persons, other than those specified in section three of this chapter, or if any such company or any of its conductors shall permit any person whatever to travel free upon its cars, except upon the exhibition of free passes issued as provided in this section, such company or conductor shall forfeit and pay, for each offense, the sum of one hundred dollars.

§ 7. If any such railroad company refuses or neglects to comply with the award of the commissioner, provided in section five of chapter one of this act, it shall forfeit the sum of one hundred dollars per day from the time designated by the commissioner for the completion of the work required until such work shall be actually completed.

§ 8. If any such railroad corporation neglects or refuses to file its tariff of freights and fares, as provided in section six, or to make its annual report, as provided in section seven of chapter one of this act, it shall forfeit not less than one hundred nor more than one thousand dollars per day for each and every day of such neglect or refusal.

§ 9. Any person aggrieved thereby, who may be unable to obtain satisfaction from the proper officers of any railroad in this state, may report to the commissioner of transportation any violations of the provisions of this act by any railroad company doing business therein, or by any of its officers, agents, or employees, and it shall be the duty of the commissioner to make a prompt investigation of such charges.

§ 10. Whenever it shall come to the knowledge of the commissioner that the provisions of this act have been violated by any railroad company, and the

facts in his judgment warrant a prosecution therefor, he shall immediately give notice thereof to the district attorney of the county in which such violation occurred, and it is hereby made the duty of such district attorney to commence and prosecute, in a court of competent jurisdiction, an action against any railroad company that shall have been guilty of such violation.

§ 11. All fines, forfeitures, and penalties for violations of the provisions of this act herein provided shall be recovered by action in the name of the people of the state of California. Such action shall be brought and prosecuted upon complaint of the commissioner, or the person aggrieved, by the district attorney of the county in which such violation occurred; and all moneys paid or recovered on account of such fines, penalties, and forfeitures shall be paid into the state treasury for the benefit of the public school. It is hereby made the duty of the attorney-general to counsel, advise, and assist the commissioner of transportation, whenever he shall be requested by him so to do, concerning any and all actions, proceedings, matters, things, powers, liabilities, and duties arising under the provisions of this act. He may also institute and prosecute any action or proceeding which may be necessary the more effectually to carry out the provisions of this act, and he may at any time take control of or assist in the prosecution of any action or proceeding commenced by any district attorney, as herein provided, whenever in his judgment the public interest will be subserved thereby.

Chapter Three. Police Regulations.

§ 1. In forming a train on any railroad no freight, merchandise, or lumber cars shall be placed in the rear of passenger cars, and if they or any of them shall be so placed, the officer or agent who so directed, or who knowingly suffered such arrangement of cars, and the conductor of the train, shall be guilty of a misdemeanor and shall be punished accordingly.

§ 2. No company operating any railroad in this state shall, in carrying and transporting cattle, sheep, or swine, in carload lots confine the same in cars for a longer period than thirty-six consecutive hours, without unloading for rest, water, and feeding, for a period of at least ten consecutive hours. In estimating such time of confinement, the period during which the animals have been confined without such rest on connecting roads from which they are received shall be computed. In case the owner or person in charge of such animals refuses or neglects to pay for the care and feed of animals so rested, the railroad company may charge the expense thereof to the owner or consignee, and retain a lien upon the animals therefor until the same is paid.

§ 3. When any freight train or any railroad shall stop in such a position as to obstruct the ordinary travel on any highway, for a longer period than ten minutes, the person having charge of such train shall cause it to be separated, so as to leave one street or highway open to its full width to accommodate the public travel; and any railroad company in whose employment any person shall be, who shall violate this section, shall forfeit and pay the sum of twenty-five dollars for each offense.

§ 4. Whoever enters upon or crosses any railroad, at any private passway, which is inclosed by bars or gates, and neglects to leave the same securely closed after him, shall be guilty of a misdemeanor.

§ 5. Whoever shall lead, ride, drive, or conduct any beast along the track of a railroad, except where the railroad is built within the limits of the public highway, or who shall place, or having the right to prevent it, shall suffer any animal to be placed within the fences thereof for grazing or other purposes, shall be guilty of a misdemeanor.

§ 6. Any person who may be employed upon the railroad of any company in this state as engineer, conductor, baggage-master, brakeman, switchman, fireman, bridge-tender, flagman, or signalman, or who may have charge of the regulation or running of trains upon said railroad in any manner whatever, and who shall become or be intoxicated while engaged in the discharge of his duties, shall be guilty of a misdemeanor, and on conviction thereof shall be punished for each offense by a fine not exceeding five hundred dollars, or by imprisonment in a county jail for a term not exceeding six months, or both, in the discretion of the court having cognizance of the offense; and if any person so employed as aforesaid, by reason of such intoxication, shall do any act, or neglect any duty, which act or neglect shall cause the death of, or bodily injury to any person or persons, he shall be deemed guilty of a felony.

§ 7. The governor may, from time to time, upon the application of any railroad or steamboat company, commission during his pleasure, one or more persons designated by such company, who, having been duly sworn, may act at its expense as policemen, with the powers of a deputy sheriff, upon the premises used by it in its business, or upon its cars or vessels. The company designating such person shall be responsible civilly for any abuse of his authority.

§ 8. Every such policeman shall, when on duty, wear in plain view a shield bearing the words "railroad police," or "steamboat police," as the case may be, and the name of the company for which he is commissioned.

§ 9. Every person who shall fraudulently evade or attempt to evade the payment of his fare for traveling on any railroad shall be fined not less than five nor more than twenty dollars.

§ 10. An act entitled an act to provide for the appointment of commissioners of transportation, to fix the maximum charges for freights and fares, and to prevent extortion and discrimination on railroads in this state, approved April third, eighteen hundred and seventy-six, is hereby repealed, and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed, so far as they conflict herewith.

§ 11. This act shall take effect and be in force from and after its passage.

This statute by some has been treated as superseded by act of 1880, p. 207, ch. CXVII, relating to railroad commissioners, and which, by section 13, required the commissioner of transportation to turn over the effects of his office to the railroad commissioners.

It is evident that the latter act does not entirely supersede the former.—See *Dyer vs. Placer County*, 90 Cal. 276, 278, 27 Pac. Rep. 197; *Gieseke vs. County San Joaquin*, 109 Cal. 489, 42 Pac. Rep. 446.

It may be that chapters 2 and 3 of the Act of 1877-8 are not superseded, and they are therefore here given in full. Section 10 of the original statute was considered in *People vs. Central P. R. Co.*, 62 Cal. 506, 507.

Portions of the statute relating to care of animals on trains, and providing for police protection, have been carried into the Penal Code by Stats. 1905, 672, ch. DXII, and 1905, 766, ch. DLXXIII. See **KERR'S CYC. PEN. CODE** § 369b.

See tit. **Railroad Commissioners**.

CONGRESSIONAL DISTRICTS.

To divide the state into congressional districts, and provide for the election of members of the house of representatives of the United States therein.

(Stats. 1901, 548, ch. CLXV.)

§ 1. The state is hereby divided into eight congressional districts, respectively numbered and constituted as follows:

1. The counties of Del Norte, Humboldt, Siskiyou, Trinity, Tehama, Shasta, Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Amador, Calaveras, Alpine, Mono, Mariposa, and Tuolumne shall constitute the first congressional district.

2. The counties of Mendocino, Glenn, Colusa, Butte, Sutter, Yuba, Sacramento, Yolo, Lake, Napa, Sonoma, and Marin shall constitute the second congressional district.

3. The counties of Alameda, Contra Costa, and Solano shall constitute the third congressional district.

4. All that portion of the city and county of San Francisco bounded as follows: Commencing at the point of intersection of the center of Lyon Street and the bay of San Francisco, continuing thence along the center of the following named streets: Lyon to Washington, Washington to Baker, Baker to Geary, Geary to Van Ness Avenue, Van Ness Avenue to Grove, Grove to Polk, Polk to Market, Market to Tenth, Tenth to Howard, Howard to Twentieth, thence along Twentieth to the bay of San Francisco, thence along the shore of said bay to Lyon Street, the point of beginning; together with all the waters of the bay of San Francisco, and the islands contained therein, situate within the boundaries of the city and county of San Francisco, shall constitute the fourth congressional district.

5. All that portion of the city and county of San Francisco not included in the fourth congressional district, with the islands known as the Farallon Islands, together with the counties of San Mateo and Santa Clara, shall constitute the fifth congressional district.

6. The counties of Santa Cruz, Monterey, San Benito, Fresno, Kings, Madera, Merced, Stanislaus, and San Joaquin shall constitute the sixth congressional district.

7. The county of Los Angeles shall constitute the seventh congressional district.

8. The counties of San Luis Obispo, Santa Barbara, Ventura, Kern, Tulare, Inyo, San Bernardino, Orange, Riverside, and San Diego shall constitute the eighth congressional district.

§ 2. At the general election in the year nineteen hundred and two, and every two years thereafter, there shall be elected in each of the congressional districts constituted by section one of this act, a member of the house of representatives of the United States.

§ 3. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect on the first day of January, nineteen hundred and two.

CONSTITUTION OF CALIFORNIA.

To provide for a convention to frame a new constitution for the state of California.

(Stats. 1877-8, 759, ch. CCCCXC.)

§ 1. An election shall be held on the third Wednesday in June, eighteen hundred and seventy-eight, of delegates to meet in convention to revise the constitution of this state and to frame a new constitution. No other question shall be submitted to the people or voted on at such election, any statute or law to the contrary notwithstanding. All other elections called for the same time shall be held at the next general or special state election.

§ 2. The number of delegates to be chosen to such convention shall be one hundred and fifty-two, to be apportioned as follows: The counties of San Diego and San Bernardino shall jointly elect one delegate; the county of San Diego shall elect one delegate; the county of San Bernardino shall elect one delegate; the county of Los Angeles shall elect three delegates; the counties of Santa Barbara, Ventura, and San Luis Obispo shall each elect one delegate; the counties of Tulare, Kern, and Fresno shall elect one delegate each, and the counties of Mono and Inyo shall elect one delegate; the counties of Mariposa, Merced, and Stanislaus shall jointly elect one delegate; the counties of Mariposa and Merced shall jointly elect one delegate; the county of Stanislaus shall elect one delegate; the counties of Santa Cruz, Monterey, and San Benito shall jointly elect one delegate; the county of Santa Cruz shall elect one delegate; the county of Monterey shall elect one delegate; the county of San Benito shall elect one delegate; the county of Santa Clara shall elect five delegates; the city and county of San Francisco shall elect at large thirty delegates; the city and county of San Francisco at large, jointly with the county of San Mateo, shall elect one delegate; the county of San Mateo shall elect one delegate; the county of Alameda shall elect five delegates; the counties of Contra Costa and Marin shall jointly elect one delegate; the county of Contra Costa shall elect one delegate; the county of Marin shall elect one delegate; the counties of San Joaquin and Amador shall jointly elect one delegate; the county of San Joaquin shall elect four delegates; the county of Amador shall elect two delegates; the counties of Tuolumne and Calaveras shall jointly elect one delegate; the county of Tuolumne shall elect one delegate; the county of Calaveras shall elect one delegate; the county of Sacramento shall elect five delegates; the counties of Solano and Yolo shall jointly elect one delegate; the county of Solano shall elect three delegates; the county of Yolo shall elect one delegate; the counties of Napa, Lake, and Sonoma shall jointly elect one delegate; the county of Napa shall elect one delegate; the county of Lake shall elect one delegate; the county of Sonoma shall elect four delegates; the county of Placer shall elect two delegates; the counties of El Dorado and Alpine shall jointly elect two delegates; the county of El Dorado shall elect one delegate; the counties of Nevada and Sierra shall jointly elect one delegate; the county of Nevada shall elect four delegates; the county of Sierra shall elect one delegate; the counties of Yuba and Sutter shall jointly elect one delegate; the county of Yuba shall elect two delegates; the county of Sutter shall elect one delegate; the counties of Butte, Plumas, and Lassen shall jointly elect one delegate; the counties of Plumas and

Lassen shall jointly elect one delegate; the county of Butte shall elect two delegates; the counties of Mendocino, Humboldt, and Del Norte shall jointly elect one delegate; the county of Humboldt shall elect one delegate; the county of Mendocino shall elect one delegate; the county of Del Norte shall elect one delegate; the counties of Siskiyou, Modoc, Trinity, and Shasta shall jointly elect one delegate; the counties of Siskiyou and Modoc shall jointly elect one delegate; the counties of Trinity and Shasta shall jointly elect one delegate; the county of Tehama shall elect one delegate; the county of Colusa shall elect one delegate; and thirty-two (32) delegates shall be elected by the state at large, eight (8) residents of each congressional district.

§ 3. All persons entitled by law to vote for members of assembly shall be entitled to vote at such election in their respective election districts, and not elsewhere. Such election shall be by ballot.

§ 4. The following regulations shall apply to the aforesaid election, to be held on the third Wednesday in June, A. D. eighteen hundred and seventy-eight:

First—The said election shall be held and conducted by the proper election officers of the several election districts of this state, and shall be governed and regulated in all respects by the general election laws of the state in force at the time of said election, so far as the same shall be applicable thereto, and not inconsistent with the provisions of this act.

Second—At the special election to be held under this act, if no other provision for printing and using new great registers or ward registers shall have in the mean time been made by law, the copies of the great registers which were used in the several counties of this state at the general election held in the year eighteen hundred and seventy-seven shall be used. The boards of supervisors must furnish the boards of election of each precinct in their respective counties, before the day on which said special election is appointed to be held, at least one copy of the aforesaid printed great register. If the boards of supervisors cannot otherwise obtain a sufficient number of copies of the register for the purpose, it must take the copies filed in the office of the county clerk, in pursuance of section one thousand two hundred and sixty-eight of the Political Code. If the copy of the register which shall be furnished to any precinct shall have been used at a previous election, the character "X" may be used instead of the word "voted," as required by section one thousand two hundred and twenty-eight of the Political Code. It shall not be the duty of the boards of election to post copies of the great register, as required by section one thousand one hundred and forty-nine of the Political Code.

The voter, when he offers his ballot at a polling-place, shall not be required to announce his number on the great register, as provided for in section one thousand two hundred and twenty-five of the Political Code.

Third—The officers of the several counties of this state, whose duty it is under the law to receive and canvass the returns from the several precincts of their respective counties, as well as the city and county of San Francisco, shall meet at the usual place of meeting for such purpose on the second Monday after said election. If at the time of meeting the returns from each precinct in the county in which the polls were opened have been received, the board must then and there proceed to canvass the returns; but if all returns have not been received,

the canvass must be postponed from day to day until all of the returns are received, or until six postponements have been had, when they shall proceed to make out returns of the votes cast for delegates to be members of the convention; and the proceedings of the officers whose duty it is to make out said returns shall be the same as those prescribed for like officers in the case of an election for governor, except that the returns shall be transmitted to the secretary of state. The persons receiving the highest number of votes at such election shall be elected, except in the case of persons voted for as delegates at large. Of the persons so voted for as delegates at large, the eight persons, residents of any one congressional district, who shall have received a plurality of votes over all other persons, severally, who reside in the same congressional district, shall be declared elected such delegates at large.

Fourth—The secretary of state shall, as soon as the returns of said election shall be received by him, or within twenty days after said election, in the presence of the governor and controller of state, open and compute all of the returns received of votes given for members of the convention, and the governor shall forthwith issue his proclamation, declaring the names of the persons who have been chosen members of said convention.

§ 5. The delegates so chosen shall meet in convention in the assembly chamber at the capitol, in the city of Sacramento, on the twenty-eighth of September, eighteen hundred and seventy-eight, at twelve o'clock m. They shall, by a viva voce vote, and the vote shall be entered on the journal, elect one of their number president, and such secretaries and other officers as they may deem necessary. After the said convention has met and organized, it shall have power to adjourn to and hold its meetings at any place in said city of Sacramento other than the said assembly chamber, and all committee-rooms of the state capitol building shall be under the control of said convention. The president of the convention may appoint not exceeding one doorkeeper and four pages. The convention may select phonographic reporters, and fix the amount of their compensation; also, a sergeant-at-arms and one assistant. The delegates to the convention shall receive the same per diem and mileage as members of the legislature; provided, no compensation shall be allowed delegates after the expiration of one hundred days. No pay shall be allowed for any recess longer than three days at one time. The secretary shall receive eight dollars per day, and his assistants, each, six dollars per day, and the doorkeepers, pages, sergeant-at-arms, and assistants, shall receive the same compensation as provided by law for similar services and attendance upon the assembly. The amount of pay shall be certified by the president of the convention, and shall be paid by the treasurer of state, on the warrant of the controller, in the same manner as members of the legislature are paid. It shall be the duty of the governor to attend said convention at the opening thereof, and to administer the constitutional oath of office to the delegates, and to preside at all meetings thereof until a president has been elected and taken his seat, but the governor shall have neither the casting vote nor any other vote therein. The secretary of state shall also attend at the opening of the convention and call the roll of delegates. All public officers, boards, and commissions shall furnish such convention with all such information, papers, statements, books, or other public documents in their possession as the said convention shall order or require for its use from time to time while

in session. It shall be the duty of the secretary of state to furnish the members of said convention with stationery to the amount provided by law for the legislature while in session, and to the convention such stationery, manual, file-boards, and other like things as are furnished to the two houses of the legislature. Said convention may adopt such rules and regulations for its own government as a majority of its members may determine, and said convention shall be the judge of the election and qualification of its own members.

§ 6. A journal of the proceedings of the said convention shall be kept, and shall, at the final adjournment thereof, be filed in the office of the secretary of state, and the constitution agreed to by the convention shall be recorded in his office. A majority of the convention shall constitute a quorum to do business. The doors of the convention shall be kept open, except when the public welfare shall require secrecy. Every delegate to the convention shall have the like privileges from arrest and from civil process as members of the legislature now have by law. For any speech or debate in the convention, the delegates shall not be questioned in any other place. The convention shall have the power to expel any of its members, and to punish its members and officers for disorderly behavior, by imprisonment or otherwise; but no member shall be expelled until the report of a committee appointed to inquire into the facts alleged as the ground of his expulsion shall have been made. The convention shall have power to punish as a contempt, and by imprisonment or otherwise, a breach of his privileges, or of the privileges of its members, but such power shall not be exercised except against persons guilty of one or more of the following offenses:

First—The offense of arresting or subjecting a member or officer of the convention to civil process in violation of his privilege from arrest as heretofore declared.

Second—That of disorderly conduct in the immediate view and presence of the convention, and directly tending to interrupt its proceedings.

Third—That of publishing any false and malicious report of the proceedings of the convention, or of the conduct of a member in his delegated capacity.

Fourth—That of refusing to attend, or be examined as a witness, either before the convention or a committee to take testimony in the proceeding of the convention.

Fifth—That of giving or offering a bribe to a member, or of attempting by menace, or any other corrupt means or device, directly or indirectly, to control or influence a member in giving his vote, or to prevent him from giving the same.

In all cases in which the convention shall punish any of its members, or officers, or any other person, by imprisonment, such imprisonment shall not extend beyond the session of the convention. Every person appointed to the office of secretary of the convention shall, before he enters on the duties of his office, execute a bond to the people of the state, with such security as the controller shall approve, in the penal sum of five thousand dollars, conditioned that he shall faithfully perform the duties of his office and account for all moneys which may come into his hands by virtue thereof.

§ 7. The constitution framed by such convention shall be submitted by the convention to the people for their adoption or rejection at a special election to

be held on the first Wednesday of May, eighteen hundred and seventy-nine, and every person hereby entitled to vote for delegates may vote at that election, on such adoption or rejection, in the election district in which he shall then reside, and not elsewhere. The said constitution shall be voted on as a whole. No other question than the adoption or rejection of the proposed constitution shall be submitted to the people or voted on at such election, any statute or law to the contrary notwithstanding. The convention shall prescribe the publication of said constitution, and the notice to be given of the election. The ballots or tickets shall have printed or written upon them the words "For the new constitution," or "Against the new constitution," and all the provisions of law now or at that time existing in regard to general elections shall be applicable to such election, except that the provisions of the first and second subdivisions of section four of this act shall also apply to said election. The canvassing and returns of the votes cast upon such question shall, in such manner as the convention shall direct, be certified to the executive of the state, who shall call to his assistance the controller, treasurer, and secretary of state, and compare the votes as certified to him. If, by such an examination, it is ascertained that a majority of the whole number of votes cast at such election be in favor of such new constitution, the executive of this state shall, by his proclamation, declare such new constitution to be the constitution of the state of California, and that it will take effect at such time as the said convention may have in its discretion, by resolution, or in said constitution itself, fixed. If said convention fix no time for said constitution to take effect, then it shall take effect immediately upon such proclamation being made.

§ 8. All wilful and corrupt false swearing in taking any of the oaths prescribed by this act, or by the laws of this state made applicable to this act, or in any other mode or form in carrying into effect this act, shall be deemed perjury, and shall be punished in the manner now prescribed by law for wilful and corrupt perjury.

§ 9. It shall be the duty of the secretary of state to cause this act to be published once a month after its passage, until the election of delegates herein provided, in not more than five of the public newspapers published in this state—one of said publications to be in some newspaper published in the city and county of San Francisco, and one in the city of Sacramento, one in the county of Los Angeles, and one in the county of Nevada, and one in the county of Tulare; and the expense of publishing the same, and all other legal expenses incurred in printing for the convention, shall be audited by the controller and paid by the state treasurer according to law.

§ 10. All printing necessary for the said convention, under the provisions of this act, shall be done and performed at the state printing office.

§ 11. In case any vacancy occurs by reason of the death, resignation, or otherwise, of any delegate elected to said convention, the same shall be filled by the convention.

§ 12. The sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury to pay the expenses of the convention provided for in this act.

§ 13. This act shall take effect immediately.

The Act of 1883, p. 53, relating to submission to popular vote of amendments, proposed by the legislature, was repealed by Act of 1899, p. 24; and this latter act contained provisions for submission of such amendments, but failing to state this sub-

ject in its title, the act was held unconstitutional in *People ex rel. Attorney-General vs. Curry*, 130 Cal. 82, 62 Pac. Rep. 516.

And see **KERR'S CYC. POL. CODE** §§ 1195, 1197.

CONTROLLER OF STATE—EXPERT FOR.

To repeal an act entitled "An act authorizing the controller to appoint an additional clerk in his office, in addition to the number now allowed by law, to be known as the revenue clerk, and making an appropriation for the payment of his salary for the remainder of the forty-sixth fiscal year;" to create the office of expert to the controller, and prescribing his compensation.

(Stats. 1899, 146, ch. CIX.)

§ 1. An act entitled "An act authorizing the controller to appoint an additional clerk in his office, in addition to the number now allowed by law, to be known as the revenue clerk, and making an appropriation for his salary for the remainder of the forty-sixth fiscal year," approved March twentieth, eighteen hundred and ninety-five, is hereby repealed.

§ 2. The controller is hereby authorized to appoint an expert for his office, to be known as the expert to the controller, and who shall be a civil executive officer. The salary of said expert shall be two thousand dollars per annum, payable at the same time and in the same manner as other state officers.

§ 3. This act shall take effect from and after its passage.

CONVEYANCES.

Relating to conveyances of real estate.

(Stats. 1873-4, 345, ch. CCXLV.)

§ 1. Any person in whom the title of real estate is vested who shall afterwards, from any cause, have his or her name changed, shall, in any conveyances of said real estate so held, set forth the name in which he or she derived title to said real estate.

§ 2. All conveyances of real estate, except patents issued by the state as a party, made by any public officer pursuant to any law of this state, shall, when recorded by the county recorder, be by him alphabetically indexed in the "index of grantors," both in the name of the officer making such sale and in the name of the person owning the property so sold.

§ 3. It is hereby made the duty of all county recorders to alphabetically index in the "index of grantors," both in the name by which title was acquired and also by which the same was conveyed, all conveyances referred to in section one of this act.

§ 4. This act shall be in force from and after its passage.

See *Peckham vs. Stewart*, 97 Cal. 147, 154, 31 Pac. Rep. 928.

Section 1 of the foregoing statute has

been carried into the Civil Code by Stats. 1905, 602. See **KERR'S CYC. CIVIL CODE** § 1096.

CONVICTS—BUREAU OF IDENTIFICATION.

To create a state bureau of criminal identification, providing for the appointment of a director of said bureau, defining his duties, qualifications and powers, providing for the appointment of a clerk of said bureau, and fixing his qualification, fixing the compensation of said director and clerk, and providing for the manner of paying the same, and providing for the expense of conducting the office.

(Stats. 1905, 520, ch. CCCXCIX.)

§ 1. There is hereby created a state bureau of criminal identification, to be known as "The Bureau of Criminal Identification of the State of California."

§ 2. There shall be a director of said bureau appointed by the board of prison directors of the state of California at the first regular meeting held by them after the passage of this act whose official designation shall be "The Director of the State Bureau of Criminal Identification of the State of California," and whose term of office shall be during the pleasure of the board of prison directors.

§ 3. It shall be the duty of said director, immediately upon assuming his office to file for record and report in his office all plates, photos, outline pictures, descriptions, information and measurement of all people who have been, or may thereafter be convicted and fined, or imprisoned for violating any of the military, naval, or criminal laws of the United States of America, including the laws in force in any of the territories or possessions of the United States, or of this or any other state.

§ 4. It shall be the duty of the director to collect as far as possible and file for record and report in his office all plates, photographs, outline pictures, measurements, information and descriptions of all persons who have been or who hereafter may be, convicted and imprisoned, fined or otherwise subjected to a penalty, by reason of crimes committed by such person, in this or any other state, territory or possession of the United States of America, and it shall be the duty of the director to use all diligence in procuring the same from the constituted authorities of this or any other states, territories or possessions of the United States of America, and of such municipalities thereof as are engaged in the work of preserving plates, photographs, outline pictures, descriptions, information and measurements of persons who have been or who may hereafter be convicted and imprisoned, fined or otherwise punished for crimes committed within any state, territory or possession of the United States of America, and said director shall request the various authorities of the various states, territories and possessions, within the United States, together with the authorities of the municipalities with whom he shall communicate, to transmit to said director a copy of all plates, photographs, outline pictures, descriptions, information and measurements herein provided for, with a duly prepared certificate signed by an authorized officer of the law having knowledge of the facts therein stated, which certificate shall state that the plates, photographs, outline pictures, measurements, information and description of persons forwarded by such officer to the director in accordance with the provisions of this act are the absolute plates, photographs, outline pictures, measurements, information and descriptions of the very

person or persons whose plate[s], photographs, outline pictures, measurements, information and description may be forwarded by such authorities to the director as herein provided. Provided, that it shall be the duty of said director to use all diligence to obtain and file for record in his office the plates, photographs, outline pictures, measurements, or information or description of any person who is or who may be hereafter, a fugitive from justice or wanted by the authorities of the United States or of this state by reason of the commission of any crime.

§ 5. It shall be the duty of said director to file or cause to be filed all plates, photographs, outline pictures, measurements, information and description which shall be received by him by virtue of his office, and he shall make a complete and systematic record and index of the same, providing thereby a method of convenient consultation and comparison. Provided, that it shall be the duty of said director to furnish, upon application, all information pertaining to the identification of any person, or persons, a plate, photograph, outline picture, description, measurement or any data of which person there is a record in his office, provided, however, that such information, shall be furnished to the United States officers, or officers of other states or territories or possessions of the United States duly authorized to receive the same and to all sheriffs of the state of California which application shall be in writing, and be accompanied by a certificate signed by the officer making such application, stating that the information applied for is necessary in the interest of the due administration of the laws, and not for the purpose of assisting a private citizen in carrying on his personal litigation, or of assisting any person in advancing his personal interest, or in maliciously or uselessly harassing, degrading or humiliating any person or persons.

§ 6. In this bureau may be used the following systems of identification: The Bertillon, the Depue, the finger-print system and any system of measurement that may be adopted by law in the various penal institutions of this state. It shall be the duty of the director to keep on file in his office a record consisting of duplicates of all measurements, processes, operations, signaletic cards, plates, photographs, outline pictures, measurements and descriptions of all persons confined in penal institutions of this state as far as possible, in accordance with whatever system or systems may be in vogue in this state, and he shall furnish copies thereof to persons in the manner provided by section five of this act.

§ 7. It shall be the duty of the director to obtain from the wardens, superintendent or manager of each of the state prisons and other penal institutions of the state, on the last day of each week a copy of all photographs, and descriptions of all persons admitted to and all persons discharged from such institutions during such week, and it is hereby made the duty of all wardens, superintendents and managers of such penal institutions to furnish to said director such photographs and descriptions in such manner as to enable such director to perform his duties as herein provided.

§ 8. The director shall receive a salary of eighteen hundred dollars (\$1800.) per annum, to be paid in the same manner and out of the same fund as state officers are paid. The state board of prison directors is hereby directed to provide office room and furniture, stationery and necessary clerical assistance,

and all other things which in their judgment are necessary to properly conduct said bureau, to be paid for pro rata out of the current expense funds of the penal institutions under the control of such prison directors.

See next following statute.

CONVICTS—IDENTIFICATION.

Requiring the wardens of the state prisons of California to furnish the sheriffs of California and the bureaus of identification with certain information concerning convicts within thirty days after receiving said convicts, and providing for payment of the expense incurred thereby.

(Stats. 1905, 532, ch. CDIII.)

§ 1. The wardens of the state's prisons of the state of California shall within thirty days after receiving all persons convicted of crime and sentenced to terms in their several prisons send to the sheriffs of the state of California and legalized bureau of identification photographs and minute description of such convict. Together with minute description of his person and marks of identification, together with a statement of the nature of the crime he is imprisoned for.

§ 2. Any expenditures incurred in carrying out the provisions of this act shall be paid for out of the appropriation made for the support of state's prison.

§ 3. This act shall be in effect immediately and be enforced from and after its passage and repeals an act approved March twenty-seventh, eighteen hundred and ninety-seven, on pages two hundred and thirteen and two hundred and fourteen of Statutes and Amendments to the Codes of California of eighteen hundred and ninety-seven.

See next preceding title, **Bureau of Identification.**

CORPORATIONS—CO-OPERATIVE.

To provide for incorporation, operation, and management of co-operative associations.

(Stats. 1895, 221, ch. CLXXXIII.)

The above statute has been carried into the Civil Code by Stats. 1905, 595, ch. CDXXXVII. See **KERR'S CYC. CIVIL CODE** §§ 553b-653 l inclusive.

Also Stats. 1877-8, 883, ch. DLXI, defining **Co-operative Business Associations**, is said to be now superseded by Stats. 1905, 594,

ch. CDXXXVI. See **KERR'S CYC. CIVIL CODE** § 953a.

Relating to the Statutes of 1895.—See Strong vs. Los Nietos etc. Assoc., 137 Cal. 607, 608, 70 Pac. Rep. 734.

See tit. **Banks and Banking**, ante. And see note at conclusion of title **Corporations.**

CORPORATIONS—COUNTY FIRE INSURANCE.

To provide for the organization and management of county fire insurance companies.

(Stats. 1897, 439, ch. CCLXXI.)

§ 1. Any number of persons not less than twenty-five, residing in any county in this state, owning insurable property aggregating not less than fifty thousand dollars in value, which they desire to have insured, may incorporate for the purpose of mutual insurance against loss or damage by fire.

§ 2. Such persons shall file with the insurance commissioner a declaration of their intention to incorporate for the purposes expressed in section one of this act, which declaration shall be signed by all of the incorporators, and shall contain a copy of the articles of incorporation proposed to be adopted. The insurance commissioner shall examine the proposed articles of incorporation, and, if they conform to this act, he shall deliver to such persons a certificate permitting them to incorporate as such insurance company. Such certificate shall be directed to the clerk of the county in which such corporation is proposed to be organized, and shall contain a copy of the proposed articles of incorporation. Upon filing with the secretary of state, the certified copies of the duly executed articles of incorporation, as required by section two hundred and ninety of the Civil Code of the state of California, and of the certificate above provided for, the secretary of state shall thereupon issue a certificate of incorporation to such county insurance company, and, upon organizing under such articles of incorporation, such county fire insurance company may carry on a fire insurance business as hereinafter provided. The articles of incorporation and the charter or certificate obtained by any county fire insurance company operating under the provisions of this act, shall be subject to the control and modification by the legislature of the state of California. The by-laws and all amendments thereto shall be filed with the insurance commissioner within sixty (60) days after their adoption.

§ 3. The number of directors shall not be less than (7) seven, nor more than eleven (11), a majority of whom shall constitute a quorum to do business. These directors shall be elected from the members of the association by ballot, and shall hold office for one year, or until their successors are elected and qualified. The annual meeting of the members of the company shall be on the second Monday in January of each year. In the election of the first board of directors each member shall be entitled to one vote. At every subsequent election, every person insured shall be entitled to as many votes as there are directors to be elected, and an equal additional number for every risk or risks he holds in the company, and he may cast the same in person or by proxy, distributing them among the directors to be elected, or among a less number of directors, or cumulating them upon one candidate, as he shall see fit.

§ 4. The directors shall elect, from their own number, a president and a vice-president, and shall also elect a treasurer and a secretary, who may or may not be members of the company. All of such officers hold their office for one year from the date of their election, and until their successors are elected and qualified.

§ 5. The treasurer and secretary shall give bonds to the company for the faithful performance of their duties, in such amounts as shall be prescribed by the board of directors.

§ 6. Such corporation and its directors shall possess the usual powers, and be subject to the usual duties of corporations and directors thereof, and may make such by-laws, not inconsistent with the constitution and the laws of this state, as may be deemed necessary for the management of its affairs, in accordance with the provisions of this act. Also to prescribe the duties of

its officers and to fix their compensation, and to alter and amend its by-laws, when necessary.

§ 7. Any person owning property in the county for which any such company is formed may become a member of such company by insuring therein, and shall be entitled to all the rights and privileges appertaining thereto, and no person not residing in the county in which the company is formed shall become a director of such company.

§ 8. Such company may issue policies only on detached dwellings, school-houses, churches, barns (except livery barn[s] and hotel barns), and other farm buildings, and such property as may be contained therein; also, other property on the premises owned by the insured; hay and grain in stack or in the field, and live stock on the premises of the insured, anywhere in the county, for any time not exceeding five years, and not to extend beyond the time limited for the existence of the charter, and for an amount not to exceed four thousand five hundred dollars on any one risk; provided, that no company which has been organized more than six months shall write insurance subject to one fire exceeding three per centum of the amount at risk upon the books of such company. All persons so insured shall give their obligation to the company, binding themselves, their heirs and assigns, to pay their pro-rata share to the company of the necessary expense and of loss by fire which may be sustained by any member thereof during the time for which their respective policies are written, and they shall also at the time of effecting the insurance pay such a percentage in cash, and such other charges, as may be required by the rules or by-laws of the company.

§ 9. All such companies must classify the property insured therein at the time of issuing policies thereon under different rates, corresponding as nearly as may be to the greater or less risk from fire loss which may be attached to the several kinds of property insured.

§ 10. No such company shall insure any property beyond the limits of the county within which the company is organized, nor shall any company issue policies of insurance on any property within the limits of any city containing over six thousand inhabitants at the time of the organization of such company; provided, that no dwelling shall be insured within the corporate limits of any city or town exposed by any other building within one hundred feet, or by any other risk other than a dwelling or private barn, within two hundred feet of the risk assumed; provided, that the amount of insurance shall not exceed seventy-five per centum of the value of the property and that no additional insurance shall be allowed.

§ 11. Every member of such company who may sustain loss or damage by fire shall immediately notify the president, or in his absence, the secretary thereof, stating the amount of damages or loss sustained or claimed, and if not more than two hundred dollars, then the president and secretary shall proceed to ascertain the amount of such loss or damage, and adjust the same. If the claim for damage or loss be an amount greater than two hundred dollars, then the president of such company, or in his absence, the vice-president, or in the absence of both, the secretary thereof, shall forthwith convene the board of directors of such company, whose duty it shall be when convened to appoint a

committee, of not less than three disinterested members of such company, to ascertain the amount of such damage or loss. If in either case there is a failure of the parties to agree upon the amount of such damage or loss, they shall submit the question of the amount of such loss to arbitration. The president of the company shall appoint one disinterested person to act as an arbitrator, and the claimant or insured shall appoint another, and if such two arbitrators fail to agree upon the amount of such loss, then they shall select a third disinterested person to act with them. Such arbitrators so appointed shall have full authority to examine witnesses, and to do all other things necessary to the proper determination of the amount of loss sustained by the claimant, and shall make their award in writing to the president of such company, and such award so as aforesaid made shall be final as to the amount of the loss sustained.

The pay of the said committee shall be three (\$3.00) dollars per day for each day's services so rendered, and five cents for each mile necessarily traveled in the discharge of their duties, which shall be paid by the claimant, unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case such expense shall be paid by the company.

§ 12. When the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of said company, who shall make an assessment upon all the property to the amount for which each several piece of property is insured, taken in connection with the rate of premium under which it may be classified.

§ 13. It shall be the duty of the secretary, whenever such an assessment shall have been made, to immediately notify every person holding a risk in such company, personally, by an agent, or by letter directed to his usual post-office address, of the amount of such loss, and the sum due from him, as his share thereof, and of the time and to whom such payment is to be made; but such time shall not be less than thirty days, nor more than ninety days, from the date of such notice.

§ 14. An action may be brought against any member of such company who shall neglect or refuse to pay any assessment made upon him by the provisions of this act, or other liabilities due the company, and the directors of any company so formed who shall wilfully refuse or neglect to perform the duties imposed upon them by law or by the by-laws of the company, shall be liable in their individual capacity to the person sustaining such loss. An action may also be brought and maintained against any such company by members thereof for losses sustained if payment is withheld after the amount of such losses have been determined, and is due by the terms of the policy.

§ 15. It shall be the duty of the secretary to prepare an annual statement showing the condition of such company on the thirty-first day of December, and present the same at the annual meeting.

§ 16. Any member of such company may withdraw therefrom by surrendering his policy for cancellation at any time while the organization continues the business for which it was organized, by giving notice in writing to the secretary thereof, and paying his share of all claims that may exist against

such company; provided, that the company shall have power to cancel or terminate any policy by giving the insured five days' written notice to that effect, and returning to him any excess of premium he may have paid during the term of the policy, over the cost of his insurance, as measured by the rates of standard fire insurance companies doing business in this state.

§ 17. It shall be the duty of the president and secretary, within thirty days after the first day of January in each year, to prepare, under their own oath, and transmit to the insurance commissioner, a statement of the condition of the company on the last day of the month next preceding the annual meeting. If, upon examination, the insurance commissioner finds that such company is doing business correctly, in accordance with the provisions of this act, he shall thereupon furnish the company his certificate, which shall be deemed authority to continue business during the ensuing year, subject, however, to the provisions of this act. For such examination and certificate the company shall pay one dollar. Each company shall pay, at the time of organization, five dollars to the insurance commissioner, for all services which he shall render in the matter of organization.

§ 18. Any such company may be proceeded against and dissolved in the manner and upon the same conditions as provided in case of other insurance companies incorporated in this state.

§ 19. All acts and parts of acts in conflict with this act are hereby repealed.

CORPORATIONS—AS EXECUTOR, ETC.

Authorizing certain corporations to act as executor and in other capacities, and to provide for and regulate the administration of trusts by such corporations.

(Stats. 1891, 490, ch. CCLXIV; amended 1897, 424, ch. CCLXV; 1903, 244, ch. CCVIII; and Stats. 1905, 232, ch. CCLIX.)

§ 1. Any corporation which has or shall be incorporated under the general incorporation laws of this state, authorized by its articles of incorporation to act as executor, administrator, guardian, assignee, receiver, depository, or trustee, and having a paid-up capital of not less than two hundred and fifty thousand dollars, of which one hundred thousand dollars shall have been actually paid in, in cash, may be appointed to act in such capacity in like manner as individuals. In all cases in which it is required that an executor, administrator, guardian, assignee, receiver, depository, or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath shall be taken and subscribed or such affidavit made by the president or secretary or manager thereof, and such officer shall be liable for the failure of such corporation to perform any of the duties required by law to be performed by individuals acting in like capacity and subject to like penalties; and such corporation shall be liable for such failure to the full amount of its capital stock; provided any such appointment as guardian shall apply to the estate only, and not to the person. Such corporations shall be entitled to and shall be allowed proper compensation for all the services performed by them under

the foregoing provisions of this act; but such compensation shall not exceed that allowed to natural persons for like services.

§ 2. Any court, having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depository, or trustee, upon the application of such officer or trustee, or upon the application of any person having an interest in the estate administered by such officer or trustee, after notice to the other parties in interest, as the court may direct, and after a hearing upon such application, may order such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, and until the further order of said court, with any such corporation, and upon deposit of such money and its receipt and acceptance by such corporation the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposits shall be paid out only upon the orders of said court.

§ 3. And it shall be lawful for any public administrator to deposit with any such corporation doing business in the county or city and county, in which he is acting as such administrator any and all moneys of any estate upon which he is administering, not required for the current expenses of the administration. And such deposits shall relieve the public administrator from depositing with the county treasurer the moneys so deposited with such corporation. Moneys deposited by a public administrator may be drawn upon the order of such administrator, countersigned by a judge of a superior court, when required for the purpose of administration or otherwise.

§ 4. Whenever, in the judgment of any court having jurisdiction of any estate in process of administration by any executor, administrator, guardian, assignee, receiver, depository, or trustee, the bond required by law of such officer shall seem burdensome or excessive, upon application of such officer or trustee, and after such notice to the parties in interest, as the court shall direct, and after a hearing on such application, the said court may order the said officer or trustee to deposit with any such corporation, for safe-keeping, such portion or all of the personal assets of said estate as it shall deem proper; and thereupon said court shall, by an order of record, reduce the bond to be given or theretofore given by such officer or trustee, so as to cover only the estate remaining in the hands of said officer or trustee; and the property as deposited shall thereupon be held by said corporation, under the orders and directions of said court. Any court having jurisdiction of an estate being administered by a public administrator may direct such public administrator to deposit all or any part of the moneys of the estate not required for the current expenses of the administration, with any such corporation doing business in the county or city and county where such public administrator is acting.

§ 5. Such corporations shall not be required to give any bond or security in case of any appointment hereinbefore provided for, except as hereinafter provided, but shall be responsible for all investments which shall be made by it of the funds which may be intrusted to it for investment by such court, and shall be further liable as natural persons in like positions now are, and as hereinafter provided. The amount of money which any such corporation shall have on deposit at any time shall not exceed ten times the amount of its paid-up

capital and surplus, and its outstanding loans shall not at any time exceed said amount.

§ 6. Such corporations shall pay interest upon all moneys held by them by virtue of this act, at such rate as may be agreed upon at the time of its acceptance of any such appointment, or as shall be provided by the order of the court.

§ 7. Each corporation, before accepting any such appointment or deposit, shall deposit with the treasurer of state, for the benefit of the creditors of said corporation, the sum of one hundred thousand dollars (\$100,000.00), in bonds of the United States, or municipal bonds of this state, or of any county, or city, or school district thereof, or in mortgages on improved and productive real estate in this state, being first liens thereon, and the real estate being worth at least twice the amount loaned thereon. The bonds and securities so deposited may be exchanged from time to time for other securities, receivable as aforesaid. Said bonds of the United States, or municipal bonds of this state, or of any county, city, or school district thereof, to be registered in the name of said treasurer, officially, and all said securities to be subject to sale and transfer, and to the disposal of the proceeds by said treasurer, only on the order of a court of competent jurisdiction, and as hereinafter provided. [Amendment, Stats. 1897, 424.]

§ 8. Any such corporation, having a paid-up capital in excess of two hundred and fifty thousand dollars, may be permitted by the board of bank commissioners to mortgage any improved and productive real estate owned by it, in excess of said amount, to the treasurer of state, for such sum as the said board may determine; and such mortgage may be deposited with said treasurer, and, when so deposited, it shall be included in the amount of securities, hereinabove required to be deposited with said treasurer for the benefit of the creditors of said corporation.

§ 9. So long as the corporation so depositing shall continue solvent, such corporation shall be permitted to receive from said treasurer the interest or dividends on said deposit; provided, however, that when it shall appear to the board of bank commissioners, from the semi-annual report of any such corporation, that the value of the personal property and cash held and possessed by such corporation, by virtue of the provisions of this act and any amendment thereof, exceeds ten times the amount of the deposit aforesaid, said board shall require said corporation to forthwith increase its said deposit to the sum of five hundred thousand dollars in such securities. And whenever it shall appear to said board that the amount of personal property and cash so held by any such corporation has been reduced below ten times the value of its original deposit above provided for, and said corporation is not in any default in its duties and obligations hereunder, they shall allow such corporation to reduce its said deposit to the sum of two hundred thousand dollars, by the withdrawal of such additional deposit, until such time as an increase in its holdings shall again require an additional deposit, as hereinbefore provided.

§ 10. When any part of such deposit is made in bonds and mortgages, it shall be accompanied by full abstracts of titles and searches, and shall be

examined and approved by or under the direction of the said board. The fees for an examination of title by counsel, to be paid by the corporation making the deposit, shall not exceed twenty dollars for each mortgage, and the fee for each appraiser, not exceeding two, besides expenses, shall be five dollars for each mortgage.

§ 11. It shall not be lawful for any such corporation to accept any trust or deposit, as hereinbefore provided, after the passage of this act without first procuring from the board of bank commissioners a certificate of authority, stating that such corporation has complied with the requirements of this act in respect to such deposit.

§ 12. Such corporation shall file with the said board of bank commissioners, during the months of January and July of each year, a statement, under oath, of the condition of such corporation at the close of business on the thirty-first day of December and the thirtieth day of June, respectively, next preceding, showing its financial condition. Also, a list and brief description of the trusts held by such corporation, the source of the appointment thereto, and the amount of real and personal estate held by such corporation by virtue thereof, except that mere mortgage trusts, wherein no action has been taken by such corporation, shall not be included in such statement. The said statement shall also be in such form, and contain such reports, returns, and information, as to the affairs, business, condition, and resources of the corporation, as the said board may from time to time prescribe and require.

§ 13. Such statement shall be verified by the affidavit of one of the managing officers and two of the directors or trustees of such corporation, who shall also state in such affidavit that they have examined the assets and books of such corporation for the purpose of making such statement. Any false swearing in regard to such statement shall be deemed perjury, and shall be subject to the punishment prescribed by law for such offense.

§ 14. The said board of bank commissioners are hereby authorized and empowered to address any inquiries to any such corporation, or the officers thereof, in relation to its doings and conditions, or any other matter connected with its affairs; and it shall be the duty of any such corporation or person so addressed to promptly reply, in writing, to such inquiries; and they may also require reports from any such corporation at any time they may deem desirable. It shall be the duty of one or more of the bank commissioners, as designated by the commissioners, annually, or as often as in their judgment they may deem it necessary, without previous notice, to visit and to make personal examination of the solvency of any such corporation, its ability to fulfil all its obligations, and report its condition to the attorney-general as soon as may be after such examination.

§ 16. Such commissioners shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of any such person, for the purpose of examination, by summons, subpoena, or attachment, in the manner now authorized in respect to the attendance of persons as witnesses in courts of record in this state; and all books and papers which may be deemed necessary to examine by the commissioners shall be produced, and their production may be compelled in like manner.

§ 17. Whenever it shall appear to the board of bank commissioners, from any such examination or report, that any such corporation has committed any violation of law, or is conducting its business in an unsafe or unauthorized manner, they shall, by an order under their hands, direct the discontinuance of such illegal and unsafe or unauthorized practice, and strict conformity with the requirements of the law, and with safety and security in its transactions; and whenever any such corporation shall refuse or neglect to make any such report as hereinbefore required or to comply with any such order as aforesaid, or whenever it shall appear to the said board that it is unsafe or inexpedient for any such corporation to continue to transact business, they shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings against the corporation as the nature of the case may require.

§ 18. If the board of bank commissioners shall at any time have satisfactory evidence that any semi-annual statement or other report required or authorized by this act, made or to be made by any officer or officers of such corporation, is false, it shall be the duty of the said board to immediately revoke the certificate of authority granted on behalf of such corporation and mail a copy of such revocation to said corporation and to the clerk of every court of record in this state. Such revocation shall not be set aside until satisfactory evidence shall be given to said board of bank commissioners that such corporation is in substance and in fact in the condition set forth in such statement or report, and that all the requirements of this act have been complied with. Such revocation shall be sufficient cause for the removal of such corporation from any appointment held by it under the provisions of this act.

§ 19. Any corporation which desires to retire from business under this act shall furnish to the board of bank commissioners satisfactory evidence of its release and discharge from all the obligations and trusts hereinbefore provided for; whereupon they shall revoke their certificate to such corporation, and thereupon the treasurer of state shall return to said corporation all its securities.

§ 20. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

§ 21. This act shall take effect and be in force from and after its passage.

§ 22. Any corporation exercising the powers and performing the duties provided for in said act, shall keep inviolate all communications confidentially made to it touching the existence, condition, management, and administration of any trusts confided to it; and no creditor or stockholder of any such corporation shall be entitled to disclosure of any such communication; provided, however, that the president, manager and secretary of such corporation shall be entitled to knowledge of such communication; and provided further, that in any suit or proceeding touching the existence, condition, management or administration of such trust, the court wherein the same is pending may require disclosure of any such communication. [New section, Stats. 1903, 244.]

§ 23. The use of the word "trust" in combination or in connection with

the word "company," "corporation," "incorporation," "association," "society," "organization," or "syndicate" is hereby prohibited to all persons, firms, associations, companies or corporations, other than corporations provided for by a certain act of the legislature entitled: "An act authorizing certain corporations to act as executor and in other capacities and to provide for and regulate the administration of trusts by such corporations," approved April six, eighteen hundred and ninety-one, and any person, firm, association, company or corporation which uses the word "trust" in combination with or in connection with the word "company," "corporation," "incorporation," "association," "society," "organization" or "syndicate" as the name under which business is done or transacted, shall be subject to the provisions of the act last referred to and to the supervision of the bank commissioners as required by the said act. Any person, firm, association, company or corporation making use of the word "trust" in combination or in connection with the word "company," "corporation," "incorporation," "association," "society," "organization" or "syndicate" in the manner hereinabove mentioned in the transaction of business and not subject to the provisions of said act and the supervision of the bank commissioners as in said act provided shall forfeit for each day the offense is committed, the sum of one hundred dollars to be recovered by the bank commissioners of the state of California in the manner provided by law. [New section added, Stats. 1905, 232.]

As to power of trust companies to act as administrator and executor, guardian, surety, etc., see monographic note by J. H. Hill, 48 L. R. A. 587-593; 52 L. R. A. 469.

CORPORATIONS—FOREIGN.

Requiring corporations organized under the laws of another state, territory, or foreign country, to file a certified copy of their articles of incorporation in the office of the secretary of state, and a certified copy thereof, duly certified by the secretary of state of this state, in the office of the county clerk of the county where its principal place of business is located and also where such corporation owns property, and requiring such corporation to pay to the secretary of state the same fees as are paid by corporations formed under the laws of the state of California, and providing for a penalty for the violation of the provisions of this act.

(Stats. 1901, 108, ch. XCIII.)

This statute has been carried into the Civil Code by Stats. 1905, 630, ch. CDLXXI. Also the Stats. 1899, 111, ch. XCIV, requiring foreign corporations to file a designation of person upon whom process against the corporation might be served. Also Stats. 1880, 21, ch. XXVIII, relating to rights of railway corporations to operate in this state.

See KERR'S CYC. CIVIL CODE §§ 405-410 inclusive.

Stats. 1899, 111. — Keystone etc. Co. vs. Superior Court, 138 Cal. 743, 72 Pac. Rep. 398; Willey vs. The Benedict Co., 145 Cal. 601, 603, 79 Pac. Rep. 270.

Under the earlier statute (1871-2, § 60, ch. DLXVI) governing foreign corporations doing business in this state, see Thomas vs.

Placerville G. Q. M. Co., 65 Cal. 601-638, 4 Pac. Rep. 641; Eureka L. & Y. C. Co. vs. Superior Court, 66 Cal. 314, 5 Pac. Rep. 400; San Francisco vs. Insurance Co., 74 Cal. 122, 15 Pac. Rep. 380; Gutzeit vs. Penne, 95 Cal. 599, 30 Pac. Rep. 836; Pierce vs. Southern Pac. Co., 120 Cal. 162, 47 Pac. Rep. 874, 52 Pac. Rep. 302.

And as to Stats. 1885, 13, ch. XV, tit. Foreign Fire Insurance Companies, see San Francisco vs. Insurance Co. 74 Cal. 117, 15 Pac. Rep. 380, where the statute was held unconstitutional.

The following special enactment relative to the New York Mutual Life Insurance and the Equitable Life Assurance companies may be worthy of consideration in this connection.

CORPORATIONS—SPECIAL ENACTMENT.

To authorize the Mutual Life Insurance Company of New York and the Equitable Life Assurance Company of the United States to invest moneys in real and personal estate within the limits of California.

(Stats. 1873-4, 777, ch. DXL.)

§ 1. The Mutual Life Insurance Company of New York, a corporation duly incorporated and carrying on business under the laws of the state of New York, and the Equitable Life Assurance Company of the United States, are hereby authorized and empowered to purchase and hold real estate and personal property; also to loan upon mortgages of real estate; also to construct houses and buildings, within the state of California.

§ 2. This act shall take effect from and after its passage.

See notes at conclusion of tit. Corporations.

CORPORATIONS—LOANS UPON CHATTELS.

To provide for the incorporation of associations for lending money on personal property, and regulating the same, and to forbid certain loans of money, property or credit.

(Stats. 1905, 711, ch. DL.)

§ 1. Any corporation which shall be incorporated under the general incorporation laws of this state, and the provisions of this act, authorized by its articles of incorporation to loan money at interest upon the pledge or mortgage of goods or chattels, or of safe securities, shall be granted all the powers and privileges necessary for the execution of these purposes; provided, that nothing herein contained shall authorize any such corporation to engage in the business of banking.

§ 2. Corporations may be organized under the provisions of this act, with a capital stock of fifty thousand dollars (\$50,000.00), or over, but no business shall be transacted by any such corporation until all the capital stock of such corporation has been actually and in good faith subscribed, and at least fifty per centum thereof shall have actually been paid in, in cash, or in interest-bearing securities, to be approved by the board of bank commissioners.

§ 3. Any such corporation, before transacting any business, shall be required to obtain from the board of bank commissioners a license in the form to be prescribed by them, authorizing such corporation to transact business in pursuance of the provisions of this act.

§ 4. Every corporation applying for a license under this act shall, at the time of making the application, execute and file a bond, to the people of the state, in an amount equal to one twentieth of its capital stock, with the board of bank commissioners, to be approved by them, conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed and for a faithful compliance with the provisions of this act. Said bond shall be executed by a domestic or foreign corporation authorized by the insurance commissioner to transact within this state, the business of surety

insurance as surety. Such bond shall be renewed and refilled annually, in January of each year, or the corporation shall, within thirty days thereafter, cease doing business and proceed to close up its affairs.

§ 5. Such corporations when they have disposable funds may make advances on all goods, chattels and savings bank deposit books, or on all safe securities offered, embraced within its rules and regulations, but in no case shall the amount loaned to any one person exceed the sum of three hundred dollars (\$300.00).

§ 6. Such corporation shall be entitled to charge and receive upon each loan made by it upon a mortgage of personal property, which charge shall include all services of every character in connection with said loan, except upon the foreclosure of the security, interest or discount at a rate not exceeding one and one half ($1\frac{1}{2}$) per centum per month. It may also charge for the first examination of the property to be mortgaged and for drawing and filing the necessary papers, and for all other expenses, a sum not exceeding five dollars (\$5.00) if a loan shall actually be made; but no further charge for examination of the property or for drawing or filing papers, or for any services or expenses, or upon any pretext whatsoever, beyond the said charge for interest or discount, shall be made upon any renewal or extension of the loan, or any transfer or change of the loan, or upon any other occasion, within one year from the date of the original loan, or oftener than once in each period of twelve months thereafter, provided, however, it shall be lawful to charge for any fire insurance that may be at any time effected.

It may also charge and receive upon each loan made by it upon the pledge of personal property which charge shall include all services of every character in connection with said loan, except upon the sale of the security at public auction, as hereinafter provided, interest or discount at a rate not exceeding one and one half ($1\frac{1}{2}$) per centum per month; provided, however, that all loans shall be subject to one month's interest and no loan shall be settled at a less charge than fifteen cents. A charge of one half ($\frac{1}{2}$) of one per centum per month additional may be made upon pledges for storage, burglary and fire insurance. In case of loss by fire or theft, such corporation shall not be liable, however, for more than the amount loaned, and twenty-five (25) per centum thereof in addition.

§ 7. Such corporation shall give to each pledgeor a memorandum or ticket inscribed with the name of the corporation, mentioning the article or articles, security or securities, pledged, the name of the pledgeor, the amount of the loan, the rate of compensation, the date when made, the date when payable, the page of the book where recorded, and a copy of section six (6) and eight (8) of this act.

§ 8. Property pledged to such corporations shall not be sold prior to six (6) months after the day fixed in the contract for payment, and all sales shall be at public auction, and notice of any such sale shall be published at least five (5) days previous thereto in a daily newspaper printed in the city, or city and county, in which any such corporation is located. If upon the sale of any such property at public auction there be any surplus left, after paying the cost of advertising and sale, and the amount of the loan and interest due there-

on, the same shall be paid over to the pledgeor or his legal representative or assigns on demand, any time within two years after such sale. It shall not be necessary for such corporation to sell at public auction any savings bank deposit book pledged for a loan, but the corporation may collect the money due thereon or so much thereof as may be necessary to pay the debt, in such manner and at such time as in the judgment of the directors of such corporation will best serve the interest of all parties, holding the net surplus, if any, for the owner, his legal representative or assigns. Loans on pledges may be renewed from time to time, but in no case longer than one year.

§ 9. A corporation organized under this act shall be authorized to borrow money in any amount to be used in its business not exceeding in the aggregate the amount of its capital stock.

§ 10. Such corporation shall file with the board of bank commissioners, during the months of January and July of each year, a statement, under oath, of the condition of such corporation at the close of business on the thirty-first day of December, and the thirtieth day of June, respectively next preceding, showing its actual financial condition. The said statement shall also be in such form, and contain such reports, returns, and information as to the affairs, business, condition, and resources of the corporation, as the said commissioners may from time to time prescribe and require.

§ 11. The said board of bank commissioners shall have access to the vaults, books, and papers of any such corporation, and it shall be their duty to inspect, examine and inquire into its affairs and take proceedings in regard to it, in the same manner and to the same extent as if said corporation were a savings bank or a banking corporation.

§ 12. No person, firm or corporation, other than corporations organized pursuant to this act shall, directly or indirectly, charge or receive any interest, discount or consideration greater than at the rate of one and one half ($1\frac{1}{2}$) per centum per month upon the loan, use or forbearance of money, goods or things in action, less than three hundred dollars (\$300.00) in amount or value, or upon the loan, use or sale of personal credit in anywise, where there is taken for such loan, use or sale of personal credit, any security upon any upholstery, furniture or household goods, oil paintings, pictures or works of art, pianos, organs, musical instruments, or sewing machines, plate or silver ware, iron or steel safes, professional libraries, or office furniture or fixtures, instruments of surveyors, physicians, or dentists, printing presses or printing material, wearing apparel, diamonds, watches or jewelry. The foregoing prohibition shall apply to any person who, as security for any such loan, use or forbearance of money, or for any such loan, use or sale of personal credit, as aforesaid, makes a pretended purchase of property from any person, or who, by any device or pretense of charging for his services, or otherwise, seeks to obtain a larger compensation in any case hereinbefore provided for. Any person violating the foregoing prohibition shall be guilty of a misdemeanor and is punishable by a fine of one hundred dollars (\$100.00) for the first offense, and by a like fine and imprisonment in the county jail for thirty days for the second and each subsequent offense; and further, the interest on any amount loaned shall be forfeited to the borrower. But this section shall not

apply to licensed pawnbrokers, making loans upon the actual and permanent deposits of personal property, excepting those charging unlawful rates of interest, nor affect in any way the validity or legality of any loan of money or credit exceeding three hundred dollars (\$300.00) in amount.

§ 13. Any corporation organized under this act which shall violate the provisions of the second section hereof, shall be liable to a penalty of one hundred dollars (\$100.00) for each and every day of the continuance of such violation; and any corporation which shall wilfully violate any of the provisions of any other section of this act, by which any person shall suffer or sustain loss or damage, shall forfeit its rights to do business, and the attorney-general of this state shall take the necessary legal measures to wind up and discontinue its business. Any director, officer or employee of any corporation organized under this act who shall charge, take or collect or receive, any compensation on a loan beyond or in excess of the charges herein allowed, shall be guilty of a misdemeanor and be fined not to exceed one hundred dollars (\$100.00) or be imprisoned in the county jail for not more than six (6) months, or both.

§ 14. No such corporation shall, in any year, declare or pay dividends on its capital stock amounting to more than six (6) per centum. After any such corporation shall have accumulated a surplus or risk fund amounting to fifty (50) per centum of its capital, the board of bank commissioners, upon ascertaining that said corporation has, during the previous calendar year, made a net profit amounting to more than six (6) per centum on its capital, shall have authority to make an order reducing the rates of interest, discount and charges which said corporation may lawfully charge and receive upon loans, to such rates as will, in the judgment of said commissioners, produce a net return of six (6) per centum on its capital stock. It shall be stated in said order when it shall take effect, which shall not be less than four months after it is made, and it shall continue in force until revoked.

§ 15. Such corporation shall pay annually in advance license fees, as follows: To the treasurer of state, who shall pay the same into the "bank commissioners' fund," the sum of fifty dollars (\$50.00), to the treasurer of the city, or city and county, in which such corporation is located, the sum of one hundred and fifty dollars (\$150.00). This is to be in lieu of all other licenses.

§ 16. This act shall take effect and be in force from and after its passage.

See tit. **Banks and Banking**, ante.

CORPORATIONS—MUTUAL BENEFIT.

Relating to mutual beneficial and relief associations.

(Stats. 1873-4, 745, ch. DX; amended 1880, 25, ch. XXXV; 1901, 6, ch. XIII.)

The above statutes have been carried into the Civil Code by Stats. 1905, 410, ch. CCCXLIX. See **KERR'S CYC. CIVIL CODE** §§ 452a, 453.

Former statute was considered in *People vs. Golden Gate Lodge No. 6*, 128 Cal. 263, 60 Pac. Rep. 865; *Sheehan vs. Butchers' etc. Assoc.*, 142 Cal. 489, 492-496, 76 Pac. Rep. 238

CORPORATIONS—LIFE, ACCIDENT, ETC., INSURANCE.

Relating to life, health, accident, and annuity or endowment insurance on the assessment plan, and the conduct of the business of such insurance.

(Stats. 1891, 126, ch. CXVI.)

This statute has been carried into the Civil Code by Stats. 1905, 417, ch. CCCLI, by adding new chapter (VI) to title II, part IV, division I. See **KERR'S CYC. CIV. CODE** §§ 453d-453p.

Statute has been considered or cited in: § 4, *Kruger vs. Life etc. Assoc.*, 106 Cal. 98,

101, 39 Pac. Rep. 213; § 3, *Perkins vs. Fish*, 121 Cal. 317, 321, 53 Pac. Rep. 901; §§ 2-5, 10, *S. F. Sav. Union vs. Long*, 123 Cal. 107, 110, 55 Pac. Rep. 703, §§ 2, 10, *Murray vs. Superior Court*, 129 Cal. 628, 633, 62 Pac. Rep. 191; *Stevens vs. Reeves*, 133 Cal. 678, 679, 72 Pac. Rep. 346.

CORPORATIONS—MUTUAL LIFE.

To provide for the incorporation of mutual insurance companies, for the insurance of life and health, and against accidents.

(Stats. 1865-6, 752, ch. DXLVI; § 14 repealed Stats. 1867-8, 330; amended Stats. 1867-8, 661, ch. CCCXC, and Stats. 1880, 230, ch. CXXV.)

§ 1. Any number of persons, not less than thirteen, may associate and form a mutual insurance company for the purpose of making insurance on the lives or health of individuals, or against accidents to them, and every insurance appertaining thereto or connected therewith, and to grant, purchase, and dispose of annuities. Insurance on lives, or on health, or against accidents, may in each case respectively include insurance for the whole term of life or any shorter period.

§ 2. Whenever a publication or notice in a newspaper is provided for in this act, it shall be deemed to mean a publication or notice in a newspaper issued every day, or six days in the week, or if there be none such, then in one of the most frequent issue in each week in the place where the company's office is located, or, if none be published there, then in any such newspaper published in the same or an adjoining county. Whenever such publication or notice is required to be published for a given period of time in days or weeks, it shall be sufficient if published once in each week of such period, rejecting fractions of a week. The word "company," whenever used in this act, shall be construed to mean a corporation proposed or incorporated under the provisions of this act. Any act required by this act to be performed by the president of the company, may be performed by the vice-president in case of the president's inability to act or a vacancy in the office, whatever be the cause of such inability or vacancy, whether death, illness, absence, refusal to act, or otherwise.

§ 3. The persons mentioned in the first section of this act shall make, sign, and acknowledge before any officer competent to take the acknowledgment of deeds, a written certificate of incorporation, in which shall be specified the corporate name of the company, and that such company is formed under this act, referring to it by its title and date, and any act supplementary thereto or amendatory thereof, the amount of its capital stock, and the number of shares of which such capital stock shall consist, the term of its existence, which shall not exceed seventy-five years, the number and the names of the directors who shall manage the concerns of the company for the first year, or until the first annual election, and the name of the city, or town, and county, or city and

county in which the officer [office?] of the company shall be located. They shall file said certificate in the office of the county clerk of the county or city and county in which the office of the company shall be located, and also a copy thereof, certified by the said county clerk under his hand and seal to be a true copy, in the office of the secretary of state. Every company organized under this act shall have power to make insurance upon any or all of the risks, and to do any or all of the business mentioned in section one, and to make reinsurance of any risks taken by them respectively. A copy of said certificate of incorporation, certified by the said county clerk under his hand and seal to be a true copy, shall be, *prima facie*, equal in all cases as proof to the original if produced.

§ 4. Upon the filing of said certificate and of a certified copy thereof, as in section three provided, the persons who shall have signed and acknowledged such certificate, and their successors, shall be a corporation under the laws of this state, by the name specified in the certificate.

§ 5. The concerns of every such company shall be managed by a board of directors, not less than nine, who shall be stockholders of the company in such number of shares as shall be provided by the by-laws of the company. The majority of them shall be citizens of this state. Their term of office may be one, two, or three years, as shall be provided by the by-laws of the company. After the expiration of the term of office of the directors named in the certificate of incorporation, they shall be elected each year at the annual meeting. If their term shall be more than one year, the directors chosen at the first annual meeting shall classify themselves by lot, so that one half of them shall go out of office at the end of the first year, if the term be two years, or so that one third of them shall go out of office at the end of the first year, and one third at the end of the second year, if their term be three years. The annual meeting shall be at such time and place in the town or city where the company's office is located, as shall be directed by the by-laws of the company. Notice of such meeting, time, and place, shall be published in a newspaper at least four weeks previous thereto. The election shall be by such stockholders as shall attend in person or by proxy, and each stockholder shall have one vote for each share of stock owned by him; provided, that after the filing of the declaration of the company's fixed capital, in section nine of this act provided, the holders of policies of life insurance for the term of life, on which the premiums shall not be in default, may also vote at the election of directors, and shall have one vote for each one thousand dollars insured by their policies, respectively. The election shall be by ballot, and the persons receiving the highest number of votes cast shall be the directors for the ensuing term, and until their successors shall be elected. The number of directors specified in the certificate of incorporation may be altered from time to time during the existence of the company, by resolution, at the annual meeting, of a majority of those present in person entitled to vote at the election of directors, but the number shall never be reduced below nine.

§ 6. There shall be a president and a vice-president of the company, who shall be elected by the directors from their own number, at their first meeting after the incorporation of the company, and thereafter at their first meeting after each annual election. They shall hold office during the pleasure of the board of directors, and until their successors are elected and enter upon their

duties. Such other officers may be elected or appointed as the by-laws shall provide. The compensation of all officers shall be regulated by the by-laws.

§ 7. The by-laws of the company shall be made by the board of directors, and may from time to time be altered or amended by them, or at any annual meeting, upon a notice of at least four weeks, published in a newspaper, specifying the substance of the proposed alteration or amendment, by a majority of those present in person or by proxy entitled to vote at the election of directors. Besides the usual rules and regulations for the transaction and management of the business of life insurance and annuities as in section one mentioned, the by-laws may provide in any manner not inconsistent with this act, as follows:

First—For the time, place, and mode of holding the annual meetings and the election of directors, and also of any special meetings in the town or city where the office of the company shall be located, by whom such meetings shall be called, and all other regulations connected therewith.

Second—For the number of directors who shall constitute a quorum, which shall not be less than five in a board of nine, or than seven in a larger number, for filling vacancies in the board, and for removing any member thereof or declaring his office vacant.

Third—For designating the officers of the company, their duties, powers, qualifications, the time and mode of their election or appointment, the mode of their removal, their tenure of office, their compensation, and all other matters respecting them.

Fourth—For regulating the holding and disposition of the stock of the company, and the person holding the same [sic], and the amount which may be held by any one person, or in any manner otherwise providing for the solvency of the stockholders and for the better security of those dealing with the company.

§ 8. Every company formed or existing under this act shall have a capital stock of not less than one hundred thousand dollars. It shall not make any insurance, nor transact any business until its capital stock shall have been fully paid up in cash. The board of directors of the company, or a committee of the directors appointed by the board, shall, without delay, after organizing, proceed to obtain the subscriptions required to complete the capital stock of the company, and in obtaining such subscription, or any subscriptions to capital stock afterwards authorized, must open books therefor, giving public notice thereof, if deemed necessary by them, in some newspaper of general circulation in the county in which the principal office of the company is located; such books shall, in either case, be kept open until the amount of capital stock required shall have been subscribed. If more than the requisite amount is subscribed, the stock shall be distributed pro rata among the subscribers. Any subscription may be rejected by the board of directors, or the committee thereof, or by either, as to the whole or any part thereof, and shall be, so far as rejected, without effect. [Amendment, Stats. 1880, 229.]

§ 9. Any corporation formed or existing under this act may, at any time, return to the makers, their assigns or heirs, the guarantee notes held by said corporation; and from and after such return, or the offer thereof, made in good faith, the corporation shall not be subject to any of the obligations or burdens imposed by section ten of said act upon said corporation, and in favor of the makers of such notes. [Amendment, Stats. 1880, 229.]

§ 10. Whenever, at any time, the capital of any corporation formed or existing under this act shall become impaired, it shall be duty of the board of directors at once to levy such an assessment upon the capital stock, whether paid up or not, as may be necessary to make good such impairment; and such assessment, except as to the amount thereof, shall be levied and collected in the manner prescribed by sections three hundred and thirty-one to three hundred and forty-nine, inclusive, of the Civil Code of this state. Every such corporation may increase or diminish its capital stock in the mode and manner prescribed by section three hundred and fifty-nine of said Civil Code. [Amendment, Stats. 1880, 299. The amendatory act of 1880, 299, also contained the following section: § 4. Nothing in this act shall be construed to affect any corporation formed after twelve o'clock noon, on the day upon which the Civil Code of California took effect, nor shall anything in this act be construed to revive or put in force any part of the act of which it is amendatory, beyond what was intended should be in force by the provisions of section two hundred and eighty-eight of the Civil Code of California.]

§ 11. It shall be lawful for the company to invest its capital in funds, as follows:

First—In loans upon unencumbered and improved real estate within the state of California, which shall be worth, at the time of the investment, fifty per centum more than the sum loaned.

Second—In the purchase of or loans upon interest-bearing stocks, bonds and other securities of the United States and of the states thereof.

Third—In the purchase of or loans upon interest-bearing bonds of any incorporated city or city and county in the state of California.

Fourth—In the purchase of or loans upon any stocks of companies formed under the laws of this state, which shall have, at the time of such investment, a value in the city and county of San Francisco of not less than sixty per centum of their par value, and which shall be rated as first-class securities.

But no loans shall be made on any securities specified in subdivisions three and four in any amount beyond seventy-five per centum of their market value, except mining stocks. [Amendment, Stats. 1867-8, 661.]

§ 12. No company formed under this act shall purchase, hold, or convey real estate, except for the purposes, and as herein set forth, to wit:

First—Such as shall be requisite for its accommodation in the convenient transaction of its business.

Second—Such as shall have been conveyed to it or to any person for it by way of mortgage or in trust, or in any manner otherwise, to secure or provide for the payment of loans previously contracted, or for moneys due.

Third—Such as shall have been purchased at sales upon deeds of trust, or judgments, decrees, or mortgages obtained or made for such loans or debts.

Fourth—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

All such real estate as may be acquired as aforesaid, and which shall not be requisite for the accommodation of such company in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same, and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned,

unless the said company shall procure a certificate from the controller of state that the interest of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the controller shall direct in said certificate.

§ 13. The dividends payable to the stockholders of the company shall be deducted before any net earnings shall be deemed to have accrued. Such dividends shall consist of the interest or moneys earned by the investment or other use of the capital stock. No dividends shall be made by the company while its capital stock is impaired, or when the making of such dividends would have the effect of impairing its capital; and any dividend so made shall subject the directors voting for, and the stockholders having notice and receiving the same, to a joint and several liability to the creditors of such company to the extent of such dividend.

[§ 14 repealed, Stats. 1867-8, 330.]

§ 15. Upon the expiration of the period of existence specified in the certificate provided for in section three, the company may extend its term of existence for another period of not more than seventy-five years, if the same shall be desired by a majority of the stockholders and others qualified to vote for directors, and approved of by the board of directors in office for the last year of such unexpired term. Such desire of the stockholders and others qualified to vote for directors of the company may be declared either by a vote in favor of such extension, at a meeting of them called specially for the purpose by the president or any five stockholders of the company, at the office of the company, upon a notice published in some newspaper, or by a statement in writing, declaring themselves in favor of such extension, signed by such majority of the stockholders and others qualified to vote for directors, or their attorneys in fact duly authorized. Such resolution or statement shall be submitted to the board of directors, and if approved by them, they or a majority of them shall sign a certificate in writing, declaring the desire of the company for a renewal for such further period not exceeding seventy-five years. Such certificate shall be duly acknowledged before some officer competent to take acknowledgment of deeds, and the original and a copy thereof shall be filed before the expiration of the current term of the company's existence in the same manner as is provided in section three with respect to the original certificate of incorporation. Thereupon the company shall be deemed, from and after the expiration of its current term of existence named in the certificate of incorporation, to have renewed its term of existence for the period mentioned in said certificate of renewal, in all respects as though its previous term of existence had not expired. Other renewals may be made from time to time thereafter in the like manner and with the like force and effect; but no renewal shall ever be made for a period exceeding seventy-five years.

§ 16. All premiums shall be payable wholly in cash, or one half or a greater proportion in cash, and the remainder in promissory notes bearing interest as may be provided by the by-laws. Agreements and policies of insurance made by the company may be upon the basis of full or partial participation in the profits, or without any participation therein, as may be provided by the by-laws and agreed between the parties.

§ 17. Each stockholder of the company shall be individually and personally liable for such proportion of all its debts and liabilities as the amount of its capital stock owned by him bears to the whole of such capital stock.

§ 18. It shall be lawful for any married woman, by herself and in her name or in the name of any third person, with his assent as her trustee, to cause to be insured for her sole use the life of her husband for any definite period or for the term of his natural life; and in the event of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her, and for her own use, free from the claims of the representatives of the husband or of any of his creditors, or of any parties claiming by, through, or under him. But when the premium or any part thereof paid in each year out of the funds or property of the husband shall exceed five hundred dollars, such exemption from such claims shall not apply to so much of said insurance as shall be in proportion to said excess over five hundred dollars. In case of the death of the wife before the decease of her husband, the amount of insurance may be made payable after her death to her children, for their use, or if under age, to their guardian.

§ 19. So much of an act entitled an act to provide for the incorporation of mutual insurance companies, passed April twenty-sixth, one thousand eight hundred and fifty-one, and any act amendatory thereof or supplementary thereto, as relates to insurance upon lives, is hereby repealed; but this repeal shall not affect the validity of any incorporation formed, or contract made, or rights existing under said act or acts, and the same shall be and remain in all respects as though this act had not been passed. An act entitled an act in respect to insurance for lives for the benefit of married women, passed May eleventh, one thousand eight hundred and fifty-four, is also repealed. All acts and parts of acts, so far as they affect incorporations formed under this act, are hereby repealed.

§ 20. This act shall take effect immediately.

See Const. of 1879, § 24, and subds. 19, 33, § 25, art. IV; In re California Mut. L. Ins. Co., 81 Cal. 364, 22 Pac. Rep. 869; Neale vs. Head, 133 Cal. 42, 65 Pac. Rep. 131, 576.

CORPORATIONS—REPORTS.

To protect stockholders and persons dealing with corporations in this state. (Stats. 1877-8, 695, ch. CCCCL; amended Stats. 1905, 786, ch. DLXXXIII.)

§ 1. Any superintendent, director, secretary, manager, agent, or other officer, of any corporation formed or existing under the laws of this state, or transacting business in the same, and any person pretending or holding himself out as such superintendent, director, secretary, manager, agent, or other officer, who shall wilfully subscribe, sign, indorse, verify, or otherwise assent to the publication, either generally or privately, to the stockholders or other persons dealing with such corporation, or its stock, any untrue or wilfully and fraudulently exaggerated report, prospectus, account, statement, of operations, values, business, profits, expenditures or prospects, or other paper or document intended to produce or give, or having a tendency to produce or give, to the shares of stock in such corporation a greater value or less apparent or market value than they really possess, or with the intention of defrauding any particular person or per-

sons, or the public, or persons generally, shall be deemed guilty of a felony, and on conviction thereof, shall be punished by imprisonment in state prison or a county jail not exceeding two years, or by fine not exceeding five thousand dollars, or by both.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

The Amendatory Act of 1905 above completely supersedes and leaves nothing of Act of 1877-8, 695, to insert. See **KERR'S CYC. PEN CODE** § 564 and Stats. 1905, 683.

CORPORATIONS.

An act concerning corporations.

(Stats. 1850, 347, ch. CXXVIII.)

Although it is held in *Murphy vs. Pacific Bank*, 119 Cal. 334, 51 Pac. Rep. 317, that this act and its amendments are applicable to corporations formed prior to the adoption of § 288, Civil Code, which may still exist without having reorganized under the provisions of that code, it is not deemed expedient to reproduce those enactments at length in this publication. The following list of the enactments, however, has been prepared:

The Act of 1850, 347, specifically names insurance, railroad, turnpike, and plank roads, manufactures, mining, etc., telegraph, bridges, religious and other societies, steam navigation, as objects for which corporations may be formed, though not necessarily excluding other objects.

The Act of 1851, 433, "An act to provide for the incorporation of railroad companies," § 31, reads: "An act entitled an act concerning corporations, passed April twenty-second, eighteen hundred and fifty, is hereby repealed." The Act of 1850, beginning with § 54, provided for railroad corporations, but the repeal above mentioned was not confined (in terms) to a portion of the Act of 1850. It is found in the case of *Brewster vs. Hartley*, 37 Cal. 15, 99 Am. Dec. 237, that an error occurred in printing the Railroad Incorporation Act, and that according to the **enrolled** bill, only chapter III (relating to railroads) was repealed.

§ 160 of the Act of 1850 is repealed by 1851, 426, and new sections substituted.

§ 174 of the Act of 1850 is repealed by 1851, 424.

The incorporation of colleges was provided for by Act of 1850, 273: §§ 1, 2, 3 of that act were amended by Act of 1855, 110. A supplementary act was passed enabling college trustees to borrow money for the benefit of the institutions. § 5 of the Act of 1850 was amended, 1867-8, 69, and §§ 3 and 7 were amended 1867-8, 218; also 1869-70, 419. What is termed a "supplementary" act occurs, 1871-2, 10, relating to colleges that may be founded by benevolent or fraternal organizations, and this was amended, including religious societies, and extending powers by Stats. 1873-4, 85.

In 1851, 523, provision was made for incorporation of mutual insurance companies.

In 1852, 168, provision was made for incorporation of water companies.

In 1853, there are several acts providing respectively for incorporation of railroads, Odd Fellows' associations, wagon roads, mining, manufacturing, etc., and an act relating to toll-bridges, all of which may be said to amend, or affect, the general Act of 1850, 347.

In 1854, 53, §§ 175, 184 of Act of 1850 were amended.

In 1854, 54, the Act of 1853 relating to Odd Fellows' associations is amended.

In 1854, 74, the Act of 1853 relating to turnpike road companies is amended.

In 1854, 82, the Act of 1853 relating to railroad companies is amended.

In 1857, 75, the Act of 1850, 347, is extended to societies for care, etc., of orphans, foundlings, shipwrecked sailors, sick and disabled persons, cemeteries, the latter being limited to owning not exceeding 320 acres of land.

The Act of 1863-4, 492, amending Act of 1861, homestead associations.

The Act of 1863-4, 531, amending §§ 9, 27, Act of 1862, savings banks.

The Act of 1865-6, 23, insurance companies authorized to increase capital stock.

The Act of 1865-6, 310, amends Act of 1861, railroad corporations.

The Act of 1865-6, 458, general law relating to assessments of stock.

The Act of 1865-6, 469, authorizes organization of chambers of commerce, boards of trade, etc.

The Act of 1865-6, 626, holding of real estate by.

The Act of 1865-6, 743, fire and marine insurance companies.

The Act of 1866-7, 753, life, health, and accident insurance companies.

The Act of 1867-8, 204, institutions of learning, science, and art.

In 1858, 57, the Act of 1850 is "extended" to include associations for the care of orphans, foundlings, shipwrecked sailors, etc., etc., and permitting married women to participate in same.

In 1858, 264, the last above act was supplemented, and

In 1858, 145, repeals § 34 of the Act of 1853 relating to plank and turnpike road companies.

In 1858, 133, § 1 of the Act of 1853, amended in 1855, concerning corporations for mining, manufacturing, etc., is amended, and

In 1858, 265, repealing portion of Plank

and Turnpike Act, so far as relates to control by supervisors.

In 1853, 87, § 179 of Act of 1850, relating to sale of real property of corporations, is amended.

In 1853, 93, the Act of 1853 relating to corporations for mining, manufacturing, etc., is amended and supplemented; corporations theretofore formed for the purposes named are validated.

In 1861, 41, provision is made respecting corporations organized in this state and mining outside thereof.

In 1861, 84, §§ 146, 147, 148, 149, 154 of the Act of 1850 are amended, and a new provision is inserted respecting telegraph companies.

In 1861, 228, 533, there are certain provisions affecting water companies.

In 1861, 567 et seq., homestead associations are provided for.

In 1862, 17, 110, 125, certain sections of the Act of 1850 are amended.

In 1862, 199, provides for incorporation of savings banks.

In 1862, 540, the incorporation of canal companies is provided for.

In Act of 1863, 34, 736, 747, 766, the Act of 1850 is amended in several respects.

In Act of 1863, 610, the Railroad Incorporation Act of 1861 is amended.

In Act of 1863, 624, the incorporation of library associations is provided for.

In Act of 1863-4, 76, 109, mining corporations are authorized to change principal place of business.

The Act of 1863-4, 149, amends the Act of 1853 relating to mining, manufacturing, etc., corporations.

The Act of 1863-4, 158, amends Act of 1862, relating to savings banks.

The Act of 1863-4, 303, validates corporations theretofore formed.

The Act of 1863-4, 402, general law as to assessments of stock.

The Act of 1867-8, 539, amending Act of 1861, homesteads.

The Act of 1869-70, 46, amending § 175 of general law of 1850, 347.

The Act of 1869-70, 130, amending § 10, Bank Act of 1862.

The Act of 1869-70, 132, 364, amending Banking Act of 1853, extending existence of.

The Act of 1869-70, 402, amending general law of 1850, 347.

The Act of 1869-70, 474, amending Homestead Corporation Act.

The Act of 1869-70, 523, is an independent act entitled "to provide for the formation of corporations for the accumulation of funds and savings, and the direct promotion of manufacturing and mechanic arts, agriculture, and mining." The fifth section makes the Act of 1862, 199, applicable to these corporations, "so far as not in conflict with this act."

The Act of 1869-70, 726, corporations for charitable and beneficial purposes.

The Act of 1869-70, 822, corporations for trading, manufacture, etc.

There are special acts, and some amendments occur to a few of the acts above enumerated, in 1872 and later, but the foregoing list is supposed to include those laws enacted prior to the codes and which are presumably affected by the decision in *Murphy vs. Pacific Bank*, 119 Cal. 334, 51 Pac. Rep. 317.

Those later acts are, particularly: 1871-2, 132, 133 (savings and loan), 443 (mining), 526 (manufacture, etc.), 826 (foreign); 1873-4, 525 (homestead), 866 (mining).

Some of these later statutes, as **Mining, Foreign**, have been carried into the Civil Code by Stats. of 1905, as heretofore noted under those subjects.

CORPORATIONS—FOREIGN INSURANCE, TAX ON.

See *Kerr's Cyc. Pol. Code*, § 622a.

CORPORATIONS—INSOLVENCY OF, INSURANCE.

See *Kerr's Cyc. Pol. Code*, § 602.

CORPORATIONS—MINING.

See *tits. Mining, Stockholders*.

CORPORATIONS—WAGES OF EMPLOYEES.

The Statute of 1891, 195, ch. CXLVI, giving lien, attorney's fee, etc., in favor of employees of corporations, is held unconstitutional in: *Slocum vs. Bear Valley Irr. Co.*, 122 Cal. 555, 55 Pac. Rep. 403; *Johnson vs. Goodyear Min.*

Co., 127 Cal. 20, 21, 59 Pac. Rep. 304. And was cited in the following earlier cases: *Keener vs. Eagle Lake L. & I. Co.*, 110 Cal. 630, 43 Pac. Rep. 14; *Ackley vs. Black Hawk G. M. Co.*, 112 Cal. 43, 44 Pac. Rep. 330.

CORONERS.

There is an Act of 1871-2, 81, ch. LXXXI, concerning the making of chemical post mortem examinations, and for compensation

of the physician or surgeon employed therefor. There is a provision on this subject in the general County Government Act § 142.

The San Francisco charter also provides for the same matter. There is also the statute of 1895, 52, ch. LI, providing for the same thing in counties of the first class.

The statute of 1893, 190, ch. CLXV, provides for assistants to coroners in a city, or city and county, having one hundred thousand, or more, population; and the statute of 1895, 168, ch. CLXIV, provides for a stenographic reporter for coroners in each county, or city and county, with a population of one hundred thousand or more. It is not deemed essential to publish those statutes in the compilation of "General Laws."

As to post mortems at state prisons, see **Marin County; State Prisons.**

And for fees, see **County Government Act; Fees of Officers.**

And as to **Coroners' Juries**, see **KERR'S CYC. PEN. CODE** §§ 1510 (1511a, 1511b, new), 1512, 1513 (1514a new), and 1515, amendments 1905.

But as to **Coroner—San Francisco** (Stats. 1871-2), see *People vs. Southwell*, 46 Cal. 153; *People vs. Kuhlman*, 118 Cal. 140, 50 Pac. Rep. 382; Stats. 1871-2, 403, *Kuhlman vs. Superior Court*, 122 Cal. 638, 55 Pac. Rep. 589.

See tit. **Health—Public.**

COSTS—CIVIL ACTIONS.

Concerning the costs in civil actions for serving summonses and subpoenas. (Stats. 1891, 56, ch. LX.)

§ 1. In all civil actions, when a summons or subpoena is served by a person other than the sheriff, the person so serving shall be allowed by the court issuing the process such sum as the court may think proper, not exceeding the amount allowed sheriffs by law.

§ 2. This act shall take effect from and after its passage.

Concerning costs in actions of libel and slander, see post, tit. **Libel.**

COSTS WHERE STATE IS A PARTY.—See **KERR'S CYC. CODE CIVIL PROC.** § 1038.

Cost Bills—Settlement.—See **KERR'S CYC. CODE CIV. PROC.** § 1033.

See note herein under tits. **Coroners; Libel and Slander.**

AS TO TRIALS FOR CRIMES COMMITTED IN STATE PRISON, see tit. **State Prisons**, post; Stats. 1880, 43, ch. LVI.

COUNTIES—CLAIMS OF.

Authorizing the allowance, settlement, and payment of claims of counties against the state.

(Stats. 1893, 109, ch. XCIII.)

§ 1. On the presentation of the claim of any county of this state, or treasurer thereof, to the state controller for commissions, charges, or fees fixed or directed to be allowed by law for the collection of state taxes, the said commissions, charges, or fees for which claim is made, not having been allowed by the state, and the same having been paid into the state treasury, thereupon the state controller shall, in the next settlement thereafter to be made with the treasurer of the county presenting such claim, allow to be retained out of any moneys then in the hands of such treasurer belonging to the state, the amount of such claim; provided, however, that the moneys thus retained shall be paid into the county treasury, and shall be the property of such county.

§ 2. This act shall take effect immediately.

County of Sacramento vs. Colgan, 114 Cal. 246, 46 Pac. Rep. 175; *County of Yolo vs. Colgan*, 132 Cal. 265, 276, 64 Pac. Rep. 403.

COUNTIES, NEW—FUNDS.

To provide for the transfer of certain moneys from one county to another, when a new county has been formed and organized.

(Stats. 1893, 235, ch. CXCI.)

§ 1. Whenever a new county has been formed within the state, it shall be the duty of the treasurer of the county or counties out of whose territory said

new county shall have been formed, to immediately cause to be transferred to the county treasurer of the new county thus formed all moneys standing to the credit of or belonging to any road or school district, the territory comprising which has been segregated from such old county, and which is included in the boundaries of such new county.

§ 2. Whenever, in the formation of a new county, a road or school district has been divided, the board of supervisors shall, by order, direct the treasurer to transfer a proportionate amount of the moneys remaining in the fund of such district to the treasurer of the new county.

§ 3. This act shall be held to apply expressly to counties heretofore divided and new counties created from the territory of the same, when no provision was made in the act creating such county for the transfer of the moneys herein provided to be made.

§ 4. A compliance with the provisions of this act shall be a full and complete settlement of all demands which the new county had against the old county or counties.

§ 5. This act shall take effect immediately.

County of Kings vs. County of Tulare, 119 Cal. 509, 517, 51 Pac. Rep. 866.
See next following statute and note.

COUNTIES, NEW—PROCESS.

Concerning the execution of final process in certain cases.

(Stats. 1873-4, 365, ch. CCLXVIII.)

§ 1. In all cases where new counties have been or may hereafter be erected, and executions, orders of sale upon foreclosures of mortgages, or other process affecting specific real estate, have been or may hereafter be adjudged by the final judgment or decree of a court of competent jurisdiction, to be executed by the sheriff of the county in which such real estate was originally situated, such process may be executed by the sheriff of the new county in which such real estate is found to be situated, with the like effect as if he were the sheriff of the county designated in the judgment, decree, or order of sale, to execute the same.

§ 2. This act shall take effect and be in force from and after its passage.

See last preceding statute, as to transfer of funds by county treasurer.

And for counties formed since adoption

of Political Code, see names of respective counties, for instance: Glenn, Riverside, etc.

COUNTY BONDS.

It is believed that the issuing of bonds and funding indebtedness of counties is covered by subd. 13, § 25, County Government Act of 1897, post.

Former enactments were: 1883-4 (extra session), 8; 1889, 37; Pol. Code §§ 4048-4051, as amended 1880, 313-315. See also Stats. 1880, 211.

COUNTY BOUNDARIES.

To publish independent acts relating to or more definitely defining boundaries between certain counties in this connection would be of no advantage. Boundaries of counties are given in Kerr's Cyc. Pol. Code §§ 3903 to 3958 inclusive, and the special acts here alluded to are generally cited in the codes,

under appropriate sections. See **Glenn County; Riverside County**, etc., post.

BOUNDARIES. — **Fresno, Madera, and Mariposa counties.** — Stats. 1871-2, 891, 1873-4, 100; County of Mariposa vs. County of Madera, 142 Cal. 50, 53, 54, 75 Pac. Rep. 572.

COUNTY CLERK—DUTIES.

See **Pension Claims; Counties of Tenth Class; County Government, Fees; County Officers; Kerr's Cyc. Code of Civil Procedure.**

COUNTY EXHIBITS.

Empowering boards of supervisors of any of the several counties of the state of California to levy a special tax for the purpose of displaying the products and industries of any county in the state at domestic or foreign expositions, for the purpose of encouraging immigration and increasing trade in the products of the state.

(Stats. 1901, 589, ch. CLXXXVI.)

§ 1. The boards of supervisors of the several counties within the state of California, or any of them, are hereby authorized and empowered to levy a special tax on the taxable property within their respective counties, for the purpose of creating a fund not exceeding ten thousand dollars in any one year in any one county, to be used for collecting, preparing, and maintaining an exhibition of the products and industries of the county at any domestic or foreign exposition, for the purpose of encouraging immigration and increasing trade in the products of the state of California; provided, the total tax levies for such purposes in any one year shall not exceed two cents on each one hundred dollars of taxable property in the county, according to the assessment roll.

COUNTY GOVERNMENT.

To establish a uniform system of county and township government.

(Stats. 1883, 299, ch. LXXV, was amended as follows: 1885, 125, 166, 195; 1887, 168, 178; 1889, 232; and superseded by Stats. 1891, 295, ch. CCXVI, which was in turn amended 1893, 310, and repealed by Stats. 1897, 452, ch. CCLXXVII; amended 1901, 685, ch. CCXXXIV, and 1903, 129, ch. CXVIII; 1903, 151, ch. CXXXVIII; 1903, 156, ch. CXL; 1903, 160, ch. CXLIV; 1903, 168, ch. CLIV; 1903, 173, ch. CLVII; 1903, 179, ch. CLXII; 1903, 200, ch. CLXXX; 1903, 212, ch. CXCII; 1903, 218, ch. CXCV; 1903, 224, ch. CXCVI; 1903, 227, ch. CXCVII; 1903, 230, ch. CXCVIII; 1903, 232, ch. CXCIX; 1903, 237, ch. CCIII; 1903, 239, ch. CCIV; 1903, 402, ch. CCLXXVII; and in same connection, as to certain officers in counties of tenth class, see 1903, 217, CXCIV, which is properly an amendment, though not so designated in its title, and is inserted in this act immediately preceding § 168.)

§ 1. The several counties of this state, as they now exist, and such other counties as may be hereafter organized, according to law, are bodies corporate and politic, and as such have the powers specified in this act, and such other powers as are necessarily implied.

§ 2. Their powers can only be exercised by the board of supervisors, or by agents and officers acting under their authority, or authority of law.

§ 3. The name of a county designated in the law creating it is its corporate

name, and it must be designated thereby in all actions and proceedings touching its corporate rights, properties, and duties.

§ 4. It has power:

1. To sue and be sued.
2. To purchase and hold land within its limits.
3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its powers.
4. To manage and dispose of its property as the interests of its inhabitants may require.
5. To levy and collect such taxes, for purposes under its exclusive jurisdiction, as are authorized by law.

§ 5. No county shall, in any manner, give or loan its credit to or in aid of any person or corporation. An indebtedness or liability incurred contrary to this provision shall be void.

§ 6. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made in violation of this act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county. And all officers of said county, are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same.

§ 7. Any officer authorizing, or aiding to authorize, or auditing, or allowing, or paying any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this act, or of the constitution of this state, shall be liable in person, and upon his official bond, to the person or persons damaged by such illegal authorization, to the extent of his or their loss by reason of the non-payment of his or their claims.

§ 8. Whenever any board of supervisors shall, without authority of law, order any money paid as a salary, fees, or for any other purposes, and such money shall have been actually paid; or whenever any county officer has drawn any warrant or warrants in his own favor, or in favor of any other person, without being authorized by the board of supervisors, or by the law, and the same shall have been paid, the district attorney of such county is hereby empowered, and it is hereby made his imperative duty, to institute suit, in the name of the county, against such person or persons, to recover the money so paid, and twenty per centum damages for the use thereof; and no order of the board of supervisors therefor shall be necessary to maintain such suit. When the money has not been paid on such order or warrants, it is hereby made the imperative duty of the district attorney of such county, upon receiving notice thereof, to commence suit, in the name of the county, to restrain the payment of the same; and no order of the board of supervisors shall be necessary in order to maintain such suit.

§ 9. It shall be the duty of the judge of the superior court of each and every county, whenever a grand jury is impaneled, to call their attention to the provisions of the foregoing sections, and to instruct them to ascertain, by careful and diligent investigation, whether the provisions of said sections have been complied with, and to note the result of such investigation in their report.

§ 10. The population of the several counties of this state is hereby ascertained and determined to be and is as follows:

COUNTY.	POPULATION.
1. San Francisco	342,782
2. Los Angeles	170,298
3. Alameda	130,197
4. Santa Clara	60,216
5. Sacramento	45,915
6. Sonoma	38,480
7. Fresno	37,862
8. San Joaquin	35,452
9. San Diego	35,090
10. San Bernardino	27,929
11. Humboldt	27,104
12. Solano	24,143
13. Santa Cruz	21,512
14. Mendocino	20,465
15. Orange	19,696
16. Monterey	19,380
17. Santa Barbara	18,934
18. Tulare	18,375
19. Contra Costa	18,046
20. Riverside	17,897
21. Nevada	17,789
22. Shasta	17,318
23. Butte	17,117
24. Siskiyou	16,962
25. San Luis Obispo	16,637
26. Kern	16,480
27. Napa	16,451
28. Placer	15,786
29. Marin	15,702
30. Ventura	14,367
31. Yolo	13,618
32. San Mateo	12,094
33. Calaveras	11,200
34. Tuolumne	11,166
35. Amador	11,116
36. Tehama	10,996
37. Kings	9,871
38. Stanislaus	9,550
39. Merced	9,215
40. El Dorado	8,986
41. Yuba	8,620
42. Colusa	7,364
43. San Benito	6,633
44. Madera	6,364
45. Lake	6,007

46. Sutter	5,886
47. Glenn	5,150
48. Modoc	5,076
49. Mariposa	4,720
50. Plumas	4,657
51. Lassen	4,511
52. Trinity	4,383
53. Inyo	4,377
54. Sierra	4,017
55. Del Norte	2,408
56. Mono	2,167
57. Alpine	509

[Amendment Stats. 1901, 685.]

§ 11. The county seats of the respective counties of this state, as now fixed by law, are hereby recognized as and declared to be the county seats of the respective counties. No county seat shall be removed unless two thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal.

§ 12. Whenever there shall be presented to the board of supervisors of any county a petition, signed by the qualified electors of such county, in number equal to a majority of the votes cast at the preceeding general election, praying for the submission of the question of the removal of the county seat of such county, it shall be the duty of the board of supervisors, by due proclamation, to submit the question of such removal of the county seat at the next general election to the qualified electors of such county. The election shall be conducted and the returns canvassed in all respects as provided by law for the conduct of general elections and canvassing the returns thereof.

§ 13. Whenever there shall be presented to the board of supervisors, a petition, or petitions, signed by legal voters of said county equal in number to fifty per centum of the votes cast at the last preceding general election, asking that an ordinance, to be set forth in such petition, be submitted to a vote of the qualified voters of such county, it shall be the duty of the board of supervisors, by proclamation, to submit such proposed ordinance to the vote of the qualified electors of such county. Such election shall be held within thirty days after the first regular meeting of the board after the filing of such petition; provided, that should said petition be filed within six months prior to a general election, no special election need be held, but such ordinance shall be submitted at the next general election. The ballots used at such special or general election shall contain the words "For the ordinance" (stating the nature of the ordinance), and "Against the ordinance" (stating the nature of the ordinance). The election shall be conducted and the returns canvassed in all respects as provided by law, for the conducting of general elections and the canvassing the returns thereof; provided, that when a special election is held under the provisions of this section, the board of supervisors, in their discretion, may consolidate precincts, and may reduce the number of election officers to a number not less than four. If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the board of supervisors shall proclaim such fact, and

upon the publication of such proclamation, such ordinance thus adopted shall have the same and equal force and effect as though adopted and ordained by the board of supervisors. The board of supervisors may also, at any election, submit any question or proposition upon which they may desire the opinion of the voters of the county.

BOARD OF SUPERVISORS.

§ 14. Each county must have a board of supervisors, consisting of five members.

§ 15. Each member of the board of supervisors must be an elector of the district which he represents, must reside therein during his incumbency, must have been such elector for at least one year immediately preceding his election, and shall be elected by such district, and not at large; provided, that in any county or city and county in which supervisorial districts have not been established by law or ordinance, and in which supervisors are now required to be elected at large, but from particular wards, the members of the board of supervisors shall be elected at large and without regard to residence.

§ 16. The board of supervisors may, by a two-thirds vote of the members of said board, change the boundaries of any or all of the supervisor districts of a county. Said districts shall be as nearly equal in population as may be. The boundaries of no supervisor district shall at any time be changed in such manner as to affect the term of office of any supervisor who has been elected, and whose term of office has not expired. No change in the boundaries of any supervisor district shall be made within ninety days next preceding a general election.

§ 17. Whenever a vacancy occurs in the board of supervisors of a county, the governor shall fill the vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case the election of a supervisor shall be held at the next general election to fill the vacancy for the unexpired term, unless such term expires on the first Monday after the first day of January succeeding said election.

§ 18. The supervisors shall elect a chairman, who shall preside at all meetings of the board, and in case of his absence or inability to act, the members present must, by an order entered on their records, select one of their number to act as chairman temporarily. Any member of the board may administer oaths, when necessary in the performance of his official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, and no act of the board shall be valid or binding unless a majority of all the members concur therein.

§ 19. The county clerk is ex officio clerk of the board of supervisors. The records and minutes of the board must be signed by the chairman and the clerk.

CLERK OF THE BOARD.

§ 20. The clerk of the board must:

1. Record all the proceedings of the board.
2. Make full entries of all their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county.

3. Record the vote of each member on any question upon which there is a division, or at the request of any member present.

4. Immediately after the adjournment of each meeting of the board, certify all demands allowed and orders made for the payment of money, giving the amount and date of each demand, or order, and the date of the allowance thereof, which demands, or orders, shall be countersigned by the chairman of the board, and thereafter said clerk shall deliver to and leave the same with the auditor.

5. File and preserve the reports of the county treasurer of the receipts and disbursements of the county.

6. Preserve and file a memorandum of all accounts acted upon by the board.

7. Preserve and file all petitions and applications for franchises, and record the action of the board thereon.

8. Authenticate with his signature and seal of the board the proceedings of the board, whenever the same shall be ordered published.

9. Authenticate with his signature and the seal of the board, all ordinances passed by the board, and to record the same at length in the "ordinance book."

10. Record all orders levying taxes; and,

11. Perform all other duties required by law, or any rule or order of the board.

§ 21. The board must cause to be kept:

1. A "minute book," in which shall be entered the daily proceedings had at all regular and special meetings, and all orders and decisions made by them, except such as are required to be recorded in the "road," "franchise," or "ordinance" books.

2. An "allowance book," in which must be recorded all orders for the allowance of money, from the county treasury, to whom made, and on what account, dating, numbering, and indexing the same through each year.

3. A "road book," containing all proceedings and adjudications relating to the establishment, maintenance, change, and discontinuance of roads and road districts.

4. A "franchise book," containing all franchises granted by them, and all proceedings had in relation thereto.

5. A "warrant book," to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number, and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

6. An "ordinance book," in which must be entered all ordinances duly passed by the board.

§ 22. The board of supervisors must, by ordinance, provide for the holding of regular meetings of the board at the county seat.

§ 23. A special meeting may be ordered by a majority of the board. The order must be signed by the members calling such meeting, and must be entered in the minutes. Five days' notice of such meeting must be given by the clerk, personally or by mail, to the members not joining in the order. The order must specify the business to be transacted at such special meeting, and none other shall be transacted.

§ 24. All meetings of the board must be public, and the books, records, and accounts of the board must be kept at the office of the clerk, open at all times for public inspection.

GENERAL PERMANENT POWERS OF BOARDS.

§ 25. The boards of supervisors, in their respective counties, shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county charged with the assessing, collecting, safe-keeping, management, or disbursement of the public revenues; to see that they faithfully perform their duties, direct prosecutions for delinquencies, and, when necessary, require them to renew their official bonds, make reports and present their books and accounts for inspection.

2. To divide the counties into townships, election, school, road, supervisor, sanitary, and other districts required by law, change the same, and create others, as convenience requires.

3. To establish, abolish, and change election precincts, and to appoint inspectors and judges of election, canvass all election returns, declare the result, and order the county clerk to issue certificates thereof; but no election precinct shall be established or abolished, or the boundaries of any precinct changed, within ninety days prior to any election.

4. To lay out, maintain, control, construct, repair, and manage public roads, turnpikes, ferries, wharves, chutes, and other shipping facilities and bridges within the county, unless otherwise provided by law, and to grant franchises and licenses to collect tolls thereon; provided, where the cost of the construction of any bridge, wharf, chute, or other shipping facilities that may be built under the provisions of this subdivision exceeds the sum of five hundred dollars, they must cause to be prepared and must adopt plans and specifications, strain sheets, and working details, and must advertise for bids for the construction of such bridge, wharves, chutes or other shipping facilities, unless otherwise provided by law, in accordance with the plans and specifications so adopted. All bidders shall be afforded opportunity to examine such plans and specifications, and said board shall award the contract to the lowest responsible bidder, and the plans and specifications so adopted shall be attached to and become a part of the contract; and the person or corporation to whom the contract is awarded shall be required to execute a bond, to be approved by said board, for the faithful performance of such contract; provided, that after the submission of the bids as herein provided, the board of supervisors being advised by the county surveyor that the work can be done for a sum less than the lowest responsible bid, it shall then be their privilege to reject all bids and to order the work done or structure built by day's work, under the supervision and control of the said surveyor; provided further, that the surveyor in such cases shall be held personally responsible, under his official bond, to construct said bridge or structure, according to his plans and specifications, at a cost not to exceed the amount of the lowest responsible bid received; provided, that the road commissioners or road overseers in their respective districts shall employ all labor required and direct the conduct of work of any kind upon any and all public roads; provided further, that in cases of great emergency, by the unanimous consent of the whole

board, they may proceed at once to replace or repair any and all bridges and structures without notice.

5. To construct or lease, officer and maintain, hospitals and poorhouses, or otherwise, in their discretion, provide for the care and maintenance of the indigent sick or dependent poor of the county; and for such purposes to levy the necessary property or poll taxes, or both. The board of supervisors shall appoint some suitable person to take care of and maintain such hospitals and poorhouses, and shall also appoint some suitable graduate or graduates in medicine to attend to such indigent sick or dependent poor, and to the patients in such hospitals and poorhouses. The board shall not let the care, maintenance, or attendance of such indigent sick or dependent poor by contract to the lowest bidder.

6. To provide a farm, in connection with the county hospital, or poorhouse, and make regulations for working the same.

7. To purchase, receive by donation, or lease any real or personal property or water rights necessary for use of the county, and to purchase or otherwise acquire necessary real estate upon which to sink wells to obtain water for sprinkling roads, and other county purposes, and to erect thereon tanks and reservoirs for the storage of water for such purposes, and to erect pumping apparatus for obtaining the same, to preserve, take care of, and manage and control the same; but no purchase of real property shall be made unless a notice of the intention of the board to make such purchase, describing the property to be purchased, the price to be paid therefor, from whom it is proposed to be purchased, and fixing the time when the board will meet to consummate such purchase, has been published for at least three weeks in some newspaper of general circulation, published in the county; or if none be published in the county, then has been posted at least three weeks prior to the time when the board meets to consummate such purchase, in at least three public places in each supervisor district.

8. To cause to be erected or rebuilt, or furnished, a court-house, jail, hospital, and such other public buildings as may be necessary, or to provide suitable buildings for such purposes. None of the aforesaid buildings shall be erected or constructed until the plans and specifications have been made therefor and adopted by the board. All such buildings must be erected by contract, let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation published in such county, for at least thirty days. In case there is no newspaper published in such county, then such notice shall be given by posting in three public places.

9. To sell at public auction, at the court-house door, or at such other place within the county, as the board may, by a four-fifths vote, order, after thirty days' notice, given either by publication in a newspaper published in the county, or by posting in five public places in the county, and convey to the highest bidder for cash, any property belonging to the county not required for public use, paying the proceeds into the county treasury for the use of the county; provided, if in the unanimous judgment of the board, the property does not exceed in value the sum of seventy-five dollars, or if it be the product of the county farm, the same may be sold at private sale without advertising by any member of the board empowered for that purpose by a majority of the board.

10. To examine and audit, at least every twelve months, the accounts of all officers having the care, management, correction, or disbursement of moneys belonging to the county, or moneys received or disbursed by them under authority of law.

11. To examine, settle, and allow all accounts legally chargeable against the county, except salaries of officers, and such demands as are authorized by law to be allowed by some other person or tribunal, and order warrants to be drawn on the county treasurer therefor.

12. To levy taxes upon the taxable property of their respective counties for all county purposes, and also upon the taxable property of any district, for the construction and repair of roads and highways and other district purposes; provided, that no tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of such district, and received a majority of all the legal votes cast upon such proposition.

12½. Whenever there shall be presented to the board of supervisors of any county a petition signed by the qualified electors of any township or townships in number equal to a majority of the votes cast at the preceding general election, praying that said township or townships may be allowed to take the census of said township or townships for the purpose of ascertaining the population therein contained, the board of supervisors shall order such census to be taken by one or more suitable persons appointed therefor by the board of supervisors, and such census shall be taken by such persons so appointed of all the inhabitants of such township or townships; the full name of each person shall be plainly written, the names alphabetically arranged and regularly numbered in one complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the county clerk of the county wherein such census is taken, and thereupon the same shall be known and shall be the official census of said township or townships. The expenses of taking such census shall be a county charge.

13. Any county having an outstanding indebtedness, evidenced by bonds or warrants thereof, may refund such indebtedness and issue bonds of the county therefor, and any county may incur or refund a bonded indebtedness for any purposes for which the board of supervisors are herein authorized to expend the funds of said county. Such indebtedness shall be refunded or incurred in the following manner, to wit: The board of supervisors thereof shall by order specify the purpose for which the indebtedness is to be incurred, the amount of bonds which they propose to issue, the rate of interest, and the number of years, not exceeding forty, the whole or any part of said bonds are to run, and shall further provide for submitting the question of the issue of said bonds to the qualified electors of the county at a special election to be called by the board for that purpose, and the words to appear upon the ballot shall be "Bonds—Yes," and "Bonds—No," or words of similar import. None but qualified voters of the county shall be permitted to vote thereat, and it shall be held as nearly as practicable in conformity with the general election law of the state. Notice shall be given of such election by publication in one or more newspapers published in the county, once a week for at least four weeks, or daily for not less than thirty days, prior to said election. If there be no such newspaper, then by posting the same conspicuously in five public places in said county at least

thirty days before said election. Such notice must contain the time and place or places of holding such election, the name of election officers to conduct the same, the amount and denomination of the bonds, the rate of interest to be paid, and the number of years, not exceeding forty, the whole or any part of such bonds are to run. If any election officers so named in such notice are not present at the opening of the polls, the electors present may appoint election officers to take the place of such election officers so absent. If two thirds of the electors of the county voting at such election shall vote in favor of issuing such bonds, the board must proceed to issue the amount of bonds specified; provided, that the total amount of bonded indebtedness shall at no time exceed five per centum of the taxable property of the county, as shown by the last equalized assessment book thereof. This limitation shall not apply to bonds which may be issued to refund an indebtedness existing January first, eighteen hundred and eighty. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof; and said board may also, at their option, by a provision in such bonds, make such principal payable on or before a specified date at the pleasure of the county. Said bonds may be issued in denominations not to exceed one thousand dollars and not less than one hundred dollars; principal and interest payable in gold coin of the United States, either at the treasury of said county, or at such place as such board may designate, or both at such treasury or such designated place, at the option of the bondholder. Interest on said bonds shall not exceed six per centum per annum, payable annually or semiannually, as said board may designate. Said bonds shall be signed by the chairman of the board of supervisors, and attested by the auditor of said county, and have the seal of the board of supervisors attached, and said coupons shall be signed by said auditor by original or lithographed facsimile signature; and said bonds shall be sold in the manner prescribed by said board of supervisors, but for not less than par. The board of supervisors, before or at the time of incurring the indebtedness of any bonds issued under the provisions of this act, and annually thereafter until all of said bonds are paid and canceled, must levy a tax for that year upon the taxable property of said county for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said bonds for that year, and such portion of the principal, if any, as is to become due during such year, and in any event must be sufficient to raise annually for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term sufficient to pay such annual interest, and to provide annually a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run. And the board of supervisors, before or at the time of issuing said bonds by ordinance shall provide for the levy of an annual tax sufficient to effect the objects of this provision, and to provide for the payment of the interest on said bonds as it becomes due, and also sufficient to constitute a sinking fund to pay the principal of such indebtedness at or before maturity. Such tax when collected, shall be paid into the treasury of the county, and used solely to pay the interest and principal of said bonds as they respectively become due.

The revenue derived from the sale of said bonds shall be applied to the purpose specified in the order of the board, and no other. Should there be any surplus, it shall be applied toward the payment of said bonds. The board of supervisors of any county can contract a bonded indebtedness for county purposes only as herein provided.

In issuing bonds under this act, the board of supervisors may, at its option, use the following form of bond and coupon:

United States of America,
No. ———. County of ———, \$——.
State of California.

The county of ———, state of California, hereby acknowledges itself indebted and promises to pay the bearer hereof, on the first day of ———, one thousand ——— (herein insert, if the board of supervisors elect to make the bond payable on a certain date, or before that date, at the pleasure of the county, the words "or at any time before that date, at the pleasure of the county"), with interest thereon, in like gold coin, at the rate of ——— per centum per annum payable at ——— semi-annually (or annually) on the first day of ——— and ——— (or on the first day of ———, if interest payable annually) on presentation and surrender of the interest coupon hereto attached.

This bond is issued by the board of supervisors of the county of ———, state of California, in strict compliance with an act of the legislature entitled "An act to establish a uniform system of county and township governments," approved the ——— day of ———, 189—, and in pursuance of an order of said board duly made on the ——— day of ———, 18—, and with the assent of two thirds of the qualified electors of said county, voting at an election legally called and duly held for that purpose on the ——— day of ———, 18—.

And it is hereby certified and recited that the bonded indebtedness of said county, including this bond, does not exceed five per centum of the taxable property thereof, as shown by the last equalized assessment of said county, and that provision has been made for the collection of an annual tax sufficient to pay the interest on this indebtedness as it falls due, and also sufficient to constitute a sinking fund for the payment of said indebtedness at or before maturity.

In witness whereof the said county, by its board of supervisors, has caused this bond to be signed by the chairman of said board, and attested by the auditor thereof, and the seal of the board of supervisors hereto attached this ——— day of ———, one thousand ———.

Attest: ———,

—————,
Chairman Board of Supervisors.

County Auditor.

And the interest coupon may be in the following form:

"The county of ———, state of California, hereby promises to pay the holder hereof, on the ——— day of ———, one thousand ———, at ———, in ——— \$—— United States gold coin, for interest on its county bond No.——.

"—————,
"County Auditor."

If the board of supervisors of any county which has issued bonds under the provisions of this act shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the county treasurer and the payment thereof refused, the owner may file the bond, together with all unpaid coupons with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to be levied in said county, a sufficient rate to realize the amount of principal or interest past due and to become due prior to the next levy, and the same shall be levied and collected as a part of the state tax and paid into the state treasury and passed to the special credit of such county as bond tax, and shall be paid by warrants, as the payments mature, to the holder of such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged, any balance then remaining being passed to the general account and credit of said county.

14. To maintain, regulate, and govern public pounds, fix the limits within which animals shall not run at large, and appoint pound-keepers, who shall be paid out of the fines imposed and collected from the owners of impounded animals, and from no other source.

15. To equalize assessments.

16. To direct and control the prosecution and defense of all suits to which the county is a party, and, by a two-thirds vote of all the members, may employ counsel to assist the district attorney in conducting the same.

17. To insure the county buildings and other property in the name of and for the benefit of the county.

18. To establish a salary fund, and such other county funds as they may deem necessary for the proper transaction of the business of the county, and to transfer moneys from one fund to another, as the public interest may require.

19. To fill, by appointment, all vacancies that may occur in any office filled by the appointment of the board of supervisors and elective county or township officers, except in those of judge of the superior court and supervisor, the appointee to hold office for the unexpired term or until the next general election.

20. They may appoint in each county, a health officer, whose duty it shall be to enforce all orders and ordinances of the board of supervisors, pertaining to sanitary matters, and all orders, quarantine regulations, and rules prescribed by the state board of health, and all statutes relating to vital statistics. He shall give to the duties of his office such time and attention as may be necessary to secure general supervision of all matters pertaining to the health and sanitary condition of the county. He shall be a graduate of a medical college of good standing and repute, and shall hold office for a term of one year, and receive for his services a compensation not to exceed six hundred dollars per annum.

The board of supervisors shall adopt orders and ordinances necessary for the preservation of the public health of the county, not in conflict with general laws, and provide for the payment of all expense incurred in enforcing the same.

For any unincorporated town, when public necessity requires such action, the board of supervisors may appoint a special health officer, who shall, in

such town, under the supervision of the county health officer, exercise all necessary diligence in executing the ordinances, rules and regulations of the board of supervisors, or the state board of health, relating to health and sanitary matters. His term of office and compensation shall be fixed by the board of supervisors, and he shall receive as his compensation for services not to exceed one hundred dollars in any one year.

21. The board of supervisors of the several counties shall annually advertise, for at least ten days in a newspaper of general circulation in the county (if there be a newspaper published in the county, otherwise by posting notices in three public places), for sealed bids for furnishing the county with stationery, clothing, bedding, groceries, provisions, drugs, medicines, and all other supplies. All bids shall be on a schedule, showing all articles needed in the several offices and departments prepared by the clerk of the board, shall state separately the price of each article to be furnished, and any person may bid upon any article separately.

In considering such bids, the board may accept or reject all or any of them, or may accept or reject a part of any such bid, preference being given, however, to the lowest responsible bidder. All supplies furnished the county, or any officer thereof, shall be furnished at a price no greater than is specified in the bid which may be accepted by the board.

The board shall annually fix the price at which the county shall be supplied with job printing and blank books, from a schedule prepared by the clerk of the board, showing all blanks and blank books used in the several offices and departments, and also the price of all county advertising; and each county officer shall procure such blank books, job printing, and advertising required for the proper discharge of his official duties, such printing and advertising to be done by such person or newspaper as such county officer may designate, at a price no greater than is so fixed, and certify the bill therefor to the board of supervisors.

A square of advertising shall be two hundred and thirty-four ems nonpareil. No supplies, printing, stationery, or books, shall be procured of any person or firm whose paper has not been published or whose place of business has not been established in the county for one year or more prior to the time for fixing said prices.

22. The board shall cause to be published a semiannual statement of the financial condition of the county, showing, in detail the expenditures authorized during the preceding six months; and within ten days after each session of the board, a fair statement of all their proceedings.

23. To make and enforce such rules and regulations for the government of their body, the preservation of order, and the transaction of business, as may be necessary.

24. To adopt a seal for the board, a description and impression of which must be filed in the office of the county clerk and of the secretary of state.

25. To license, for purposes of regulation of revenue, all and every kind of business not prohibited by law, and transacted and carried on in such county, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; provided, that every honorably discharged soldier, sailor, or

marine of the United States, who is unable to obtain a livelihood by manual labor, shall have the right to hawk, peddle, and vend any goods, wares, or merchandise except spirituous, malt, vinous, or other intoxicating liquor, without payment of any license, tax, or fee whatsoever, whether municipal, county, or state; and the board of supervisors shall issue to such soldier, sailor, or marine, without cost, a license therefor. The board may provide that any such license shall cease upon the non-payment of such tax, and any person, firm, or corporation transacting or carrying on such business, without such license whenever prescribed, is guilty of a misdemeanor.

26. To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life.

27. To provide for the prevention of injuries to sheep by dogs, and to tax dogs and direct the application of the tax.

28. To provide, by ordinances not in conflict with the general laws of the state, for the protection of fish and game, and may shorten the season for the taking or killing of fish and game, within the dates fixed by the general state laws, but shall not lengthen the same.

29. To provide for the working of prisoners confined in the county jail, under judgment of conviction of misdemeanor, under the direction of some responsible person, to be appointed by the sheriff, whose compensation shall not exceed one hundred dollars per month, upon the public grounds, roads, streets, alleys, highways, or public buildings, or in such other places as may be deemed advisable, for the benefit of the county.

30. To provide for the burying of the indigent dead.

31. To make and enforce, within the limits of their county all such local police, sanitary, and other regulations as are not in conflict with general laws.

32. To adopt such rules and regulations within their respective counties, with regard to keeping and storing of every description of gunpowder, Hercules powder, giant powder, or other explosive or combustible material, as the safety and protection of the lives and property of individuals may require.

33. To appropriate from the general fund of the county, unless otherwise in this act provided, not to exceed, in counties of the first and second class, the sum of three thousand dollars, and in all other counties the sum of two thousand dollars in any one year, to aid in or carry on the work of inducing immigration thereto, or for the purpose of exhibiting or advertising the agricultural, mineral, manufacturing, or other resources of the county.

34. To enforce, by ordinance, within the limits of their counties, all such regulations concerning the size of wagons and vehicles of all kinds to be used on the roads or highways, and the width of tires on the same, as are not in conflict with general laws.

35. To grant licenses and franchises for constructing, keeping, and taking tolls on roads, bridges, ferries, wharves, chutes, booms, and piers, and to grant franchises, along and over the public roads and highways for all lawful purposes, upon such terms and conditions and restrictions as in their judgment may be necessary and proper, and in such manner as to present the least possible obstruction and inconvenience to the traveling public.

36. To grant on such terms, conditions, and restrictions as in their judgment

may be necessary and proper, licenses and franchises for taking tolls on public roads or highways, whenever in their judgment the expense necessary to operate or maintain such public roads or highways as free public highways is too great to justify the county in so operating or maintaining them. It shall always be a condition attached to the granting of such licenses and franchises, that such roads or highways shall be kept in reasonable repair by the person or persons to whom such licenses or franchises may be granted.

37. To enact ordinances, and regulations for the construction, alteration, repair, and control of all public roads and highways in the county, unless otherwise provided by law.

38. To levy a special road fund tax, not to exceed two (2) mills on the one dollar of assessed valuation, on all the property in such counties, outside of any incorporated city or town. Such tax shall be in addition to all taxes otherwise provided for, and the fund so created shall be expended for the construction and maintenance of the main public roads or county highways in the several road districts, in proportion to the amount collected from such districts.

39. To encourage under such regulations as they may adopt, the planting and preservation of shade and ornamental trees on the public roads and highways, and on and about the public grounds and buildings of the county, and pay to persons planting and cultivating the same, for every living tree thus planted at the age of four years, a sum not exceeding one dollar.

40. To do and perform all other acts and things, required by law not in this act enumerated, or which may be necessary to the full discharge of the duties of the legislative authority of the county government.

41. To provide by ordinance for the organization and government of districts, to protect and preserve the banks of rivers and streams and lands lying contiguous thereto from injury by overflow or the washing thereof, and to provide for the improvements of said rivers and streams, and prevent the obstruction thereof, and to provide for the assessment, levy, and collections within such districts of a tax therefor.

§ 251½. [Seems to have been incorrectly numbered.] The board of supervisors shall adopt orders and enact ordinances necessary for the preservation of the health of domestic live stock, which orders and ordinances shall not be in conflict with state or federal laws, and the said board of supervisors shall provide for the payment of all expenses incurred in enforcing the same, which expenses shall be a county charge and payable in the same manner and out of the same funds as other county charges are paid. [New section added, Stats. 1905, 722.]

§ 251½. The boards of supervisors shall also have jurisdiction and power in their respective counties to acquire and take by purchase, condemnation, or otherwise, land for the uses and purposes of public boulevards; to lay out, establish and improve public boulevards and to incur a bonded indebtedness for any of such purposes; provided, that no such indebtedness shall be incurred for any of such purposes until after the question of the issue of bonds therefor shall have been submitted to the qualified electors of the county, at a special election called for that purpose and two thirds of the electors of the county voting at such election shall have voted in favor of issuing such bonds; said

election to be called and held, and said bonds, if authorized, to be issued, sold and made payable in the manner and form prescribed by subdivision thirteen of section twenty-five of this act. Said boards shall also have power to maintain public boulevards, established and laid out under the provisions of this act, and to make and enforce rules and regulations for the protection, management, control and use of such boulevards. [New section added March 16, 1903, Stats. 1903, p. 160. In effect immediately.]

§ 26. The enacting clause of all ordinances of the board shall be as follows: "The board of supervisors of the county of _____ do ordain as follows." Every ordinance shall be signed by the chairman of the board and attested by the clerk. On the passage of all ordinances the votes of the several members of the board shall be entered on the minutes, and all ordinances shall be entered at length in the "ordinance book." No ordinance passed by the board shall take effect within less than fifteen days after its passage, and before the expiration of the said fifteen days the same shall be published, with the names of the members voting for and against the same, for at least one week, in some newspaper published in the county if there be one, and if there be none published in the county, then such ordinance shall be posted at the court-house door at least one week. An order entered in the minutes of the board that such ordinance has been duly published or posted shall be prima facie proof of such publication or posting.

§ 27. The board of supervisors shall have power to direct the sheriff to attend, in person or by deputy, all the meetings of the board, to preserve order, serve notices, subpœnas, citations, or other process, as directed by the board.

§ 28. Whenever the board of supervisors of any county shall deem it necessary or important to examine any person as a witness upon any subject or matter within the jurisdiction of such board, or to examine any officer of the county in relation to the discharge of his official duties, as to the receipt or disposition by him of any moneys, or concerning the possession or disbursement by him of any property belonging to the county, or to use, inspect, or examine any books, account, voucher, or document in the possession of such officer or other person, or under his control, relating to the affairs or interests of such county, the chairman of such board shall issue a subpœna, in proper form, commanding such person or officer to appear before such board, at a time and place therein specified, to be examined as a witness; and such subpœna may require such person or officer to produce on such examination all books, papers, and documents in his possession or under his control, relating to the affairs or interests of the county.

§ 29. It shall be the duty of the sheriff of the county to whom the subpœna is delivered, to serve the same by reading it to the person named therein, and at the same time to deliver to him a copy thereof, and his official return thereon, of the time and place of such service, shall be prima facie evidence thereof.

§ 30. Whenever the board of supervisors shall appoint any members of their body a committee upon any subject or matter of which the board has jurisdiction, and has conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers and

be liable to all the duties herein given to and imposed upon the chairman of the board of supervisors.

§ 31. Whenever any person duly subpoenaed to appear and give evidence, or to produce any books and papers, as herein provided, shall neglect or refuse to appear, or to produce such books and papers, as required by such subpoena, or shall refuse to testify before such board or committee, or to answer any questions which a majority thereof shall decide to be proper and pertinent, he shall be deemed in contempt, and it shall be the duty of the chairman of the board, or of the committee, as the case may be, to report the fact to the judge of the superior court of the county, or of the city and county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued.

§ 32. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

§ 33. The witnesses summoned to testify on behalf of the county in matters of public concern before the board of supervisors are not entitled to have their fees prepaid; but the board must allow them the reasonable expenses of their attendance.

§ 33½. To appropriate from the general fund of the county, unless otherwise provided, not exceeding in counties of the first and second class the sum of twenty thousand dollars, and in all other counties not exceeding the sum of ten thousand dollars in any one year, to aid in and carry on the work of the preservation of forests upon public lands, the reforestation of forests upon public lands, and the protection of forests upon public lands from fire. [New section added, Stats. 1905, 394.]

§ 34. The board must provide printed copies of the great register, poll-lists, poll-books, blank returns and certificates, proclamations of elections, and other appropriate and necessary appliances for holding all elections in the county, and allow reasonable charges therefor, and for the transmission and return of the same to the proper officers.

§ 35. Whenever, as canvassers, the board of supervisors have declared the result of an election held in the county, certificates must be, by the county clerk, issued to all persons elected to a county, township, or district office therein, and such other certificates must be made out and transmitted as required by law.

§ 36. The board must not, for any purpose, contract debts or liabilities, in any manner or for any purpose, which exceed in any fiscal year the income and revenue provided for such year, except as permitted by the constitution. It shall be the duty of the auditor, at the commencement of each regular session of the board, to lay before it a statement prepared by him of the aggregate

amount of allowance against each fund, and of salaries and liabilities fixed by law, paid or payable therefrom since the beginning of the fiscal year, together with a statement of receipts of each fund for that portion of the year already elapsed, and an exact estimate of the revenue for the remainder of the year apportioned to the different funds, based upon the receipts for the corresponding portion of the preceding year. Whenever the board shall have levied the state and county tax for the fiscal year, the auditor's estimates for the remainder of the year shall, as to receipts from property tax, be based upon the assessment roll and tax levy, deducting ten per centum for the anticipated delinquencies. Up to and including the first day of January in each fiscal year the board shall have no power for any purpose to contract debts or liabilities in any manner or for any purpose nor to make any allowances against any funds, which with all the debts and liabilities previously incurred and with all allowances previously made, and salaries and liabilities fixed by law payable therefrom, shall exceed seventy per centum of the auditor's estimate of revenue for the year, except to build or repair roads and bridges which have been destroyed or made impassable by flood or fire. Any debts or liabilities contracted in any manner or for any purpose and any allowances made contrary to the provisions of this section shall be null and void and the auditor shall not draw his warrant therefor nor the treasurer pay the same. When several allowances are made on the same day, they shall be deemed to have been in the order in which they are entered in the "allowance book," and shall be certified in that order by the auditor. [Amendment, Stats. 1903, 402.]

§ 37. Whenever the board of supervisors shall adopt plans and specifications for the erection, alteration, construction, or repair of any public building, bridge, or other public structure, such plans and specifications shall not be altered or changed in any manner whereby the cost of such building, bridge, or structure shall be increased, except by a vote of two thirds of their number.

§ 38. Whenever the board of supervisors shall enter into a contract for the erection, construction, alteration, or repair of any public building, bridge, or other structure, such contract shall not be altered or changed in any manner, unless they shall, by a vote of two thirds of their number, and with the consent of the contractor, first so order. And whenever any such change or alteration is so ordered, the particular change or alteration shall be specified, in writing, and the cost thereof agreed upon between the board and the contractor. In no case shall the board pay or become liable to pay for any extra work done on, or extra material furnished for, such building or structure.

§ 39. No county officer shall, except for his own service, present any claim, account, or demand for allowance against the county, or in any way except in the discharge of his official duty advocate the relief asked in the claim or demand made by any other. Any person may appear before the board and oppose the allowance of any claim or demand made against the county.

§ 40. The board of supervisors must not hear or consider any claim in favor of any public officer, person, corporation, company, or association against the county, nor shall the board credit or allow any claim or bill against the county or district fund, unless the same be itemized, giving names, dates and particular services rendered, character of process served, upon whom, distance trav-

eled, where and when, character of work done, number of days engaged, supplies or materials furnished, to whom, and quantity and price paid therefor, duly verified to be correct, and that the amount claimed is justly due, and is presented and filed with the clerk of the board within a year after the last item of the account or claim accrued. If, in case of any claim which requires itemizing, the board do not hear or consider the same because it is not itemized, they shall cause notice to be given to the claimant or his attorney of that fact, and give time to have the claim itemized and reverified.

§ 41. No account shall be passed upon by the board, unless made out as prescribed in this and the preceding section and filed with the clerk three days prior to the time of the meeting of the board at which it is asked to be allowed.

Such demand shall be made out in form substantially as follows:

Clerk's memorandum, No. ——. — Fund.

Demand of —, dated —, in sum of \$—, for —. Allowed by the board of supervisors —, 18—, in the sum of \$—.

Attest: —, Clerk of Board.

.....
Demand of

No. —. — Fund —. Demand on the treasury of the county of —, state of California, for the sum of — dollars, being for —.

Date.	Items.	Dollars.	Cents.
.....
.....
.....
		• \$.....

Expenditures authorized and approved by me.

State of California, }
County of ——— } ss.

The undersigned being duly sworn, says: That the above claim and the items as therein set out are true and correct; that no part thereof has been heretofore paid, and that the amount therein is justly due this claimant, and that the same is presented within one year after the last item thereof has accrued.

Subscribed and sworn to before me this — day of —.

————, County Clerk.

Allowed by Board of Supervisors, —, 18—, in sum of \$—, payable out of — Fund.

Attest: —, Clerk of Board of Supervisors.

Countersigned: —, Chairman Board of Supervisors.

Warrant No. —.

Allowed —, 18—, for the sum of \$—, payable out of — Fund.

————, County Auditor.

No. —. Registered —, 189—.

————, County Treasurer.

Said demand shall be approved before filing by the officer who directed such expenditure. If said demand be allowed by the board, the clerk of the board shall detach and file the memorandum, and shall indorse on such demand "Allowed by the board of supervisors," together with the date of such allowance, the amount of such allowance and from what fund; shall attest the same with his signature, and, when countersigned by the chairman, shall transmit the same to the auditor, who shall, in case he allows said demand, indorse upon it "Allowed," together with the amount for which it is allowed, from what fund, date and number of the warrant, and shall, in attestation thereof, affix his signature thereto and deliver the same to the claimant; and said demand, when so allowed and signed by the auditor, shall constitute the warrant on the treasury, within the meaning of this act.

§ 42. When the board find that any claim presented is not payable by the county, or is not a proper county charge, it must be rejected; and said rejection shall be plainly indorsed on said claim; if they find it to be a proper county charge, but greater in amount than is justly due, the board may allow the claim in part, and draw a warrant for the portion allowed, on the claimant filing a receipt in full for his account. If the claimant is unwilling to receive such amount in full payment, the claim may again be considered at the next regular session of the board, but not afterward.

§ 43. If the board refuse, or neglect to allow or reject a claim or demand for ninety days, after the same has been filed with the clerk, such refusal or neglect may, at the option of the claimant, be deemed equivalent to final action and rejection on the ninetieth day, and a claimant dissatisfied with the rejection of his claim or demand, or with the amount allowed him on his account, may sue the county therefor at any time within six months after the final action of the board, but not afterward, and if, in such action, judgment is recovered for more than the board allowed, on presentation of a certified copy of the judgment, the board must allow and pay the same, together with the costs adjudged; but if no more is recovered than the board allowed, the board must pay the claimant no more than was originally allowed.

§ 44. Warrants drawn by order of the supervisors on the county treasury for the current expenses during each year, must specify the liability for which they are drawn, and when they accrued, and must be paid in the order of the presentation to the treasurer. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in the order of registration.

§ 45. No member of the board must be interested, directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the board, or other person, on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for any purpose, or act as a member of a committee or board of reviewers.

§ 46. Whenever an application is made to the board for an order, franchise or license relating to any toll road, bridge, ferry, wharf, chute, pier or other subject over which the board has jurisdiction, in which a majority of the board are interested, the application, by order of the board, must be transferred to the superior court of the county. The clerk of the board must thereupon certify

the application, and all orders and papers relating thereto, to said superior court, and thereafter the said superior court shall have full jurisdiction to hear and determine the application.

§ 47. All public notices of proceedings of or to be had before the board, not otherwise specially provided for, must be posted at the court-house door, and two other public places in the county.

§ 48. The board must require the assessor to report to the state board of equalization, annually, a true statement of the agricultural and industrial pursuits and products of the county, with such other statistical information as they may direct.

§ 49. All claims against the county, presented by members of the board of supervisors for per diem and mileage, or other service rendered by them, must be itemized and verified as other claims, and must state that the service has been actually rendered, and before allowance such claims must be presented to the district attorney, who must indorse thereon, in writing, his opinion as to the legality thereof. If the district attorney declare the claim, or any part thereof, illegal, he must state specifically wherein it is illegal, and the claim, or such part, must then be rejected by said board.

§ 50. The board must have prepared by the clerk, and when he is not also auditor, then by that officer, and under their direction, prior to their annual meeting for levying taxes, a statement showing:

1. The indebtedness of the county, funded and floating, stating the amount of each class, and the rate of interest borne by such indebtedness, or any part thereof.

2. A concise description of all property owned by the county, with an approximate estimate of the value thereof, and the amount of cash in the county treasury and its several funds.

§ 51. The board must receive from the United States, or other sources, lands and other property granted or donated to the county for the purpose of aiding in the erection of county buildings, roads, bridges or other specific purposes, and may use the same therefor, and may provide for the sale of the same, and the application of the proceeds thereof.

§ 52. The board may provide for widening, deepening, straightening, removing obstructions from and otherwise improving all streams and washes within the county and also protecting the banks and adjacent lands from overflow of such streams or washes, when the same are not declared by law to be, and in fact are not, navigable for commercial purposes, the overflow of which interferes with highways; and provide regulations for the use, repair, and control thereof; but no regulations of the board, nor improvements directed, must in any manner interfere with the private rights or privileges of riparian owners, miners or others. Whenever, in the opinion of the board of supervisors, the general fund is insufficient to defray the cost of the improvements provided for under this section, they may levy a tax or contract a bonded indebtedness therefor in the manner provided by this act.

§ 53. Any supervisor who refuses or neglects to perform any duty imposed on him, without just cause therefor, or who wilfully violates any law provided for his government as such officer, or fraudulently or corruptly performs any

duty imposed on him, or wilfully, fraudulently or corruptly attempts to perform an act, as supervisor, unauthorized by law, in addition to the penalty provided in the Penal Code, forfeits to the county five hundred dollars for every such act, to be recovered on his official bond, and is further liable on his official bond, to any person injured thereby, for all damages sustained.

§ 54. No person is eligible to a county, district, or township office, who, at the time of his election, is not of the age of twenty-one years, a citizen of the state, and an elector of the county, district, or township in which the duties of the office are to be exercised; provided, that any woman who is of the age of twenty-one years, a citizen of the state, and a resident of the county or district, shall be eligible to the office of superintendent of public schools, school trustee, or member of the county board of education; and provided further, that no person shall hereafter be eligible to the office of district attorney who has not been admitted to practice in the supreme court of the state of California; and provided further, that the county live-stock inspector shall, at the time of his appointment, be a duly qualified veterinary surgeon having on file in the office of the county clerk a certificate issued to him by the state veterinary medical board. [Amendment, Stats. 1905, 721.]

§ 55. The officers of a county are a sheriff, a county clerk, an auditor, a recorder, a license collector, a tax collector, who shall be ex officio license collector, a district attorney, an assessor, a treasurer, a superintendent of schools, a public administrator, a coroner, a surveyor, the members of the board of supervisors, a live-stock inspector, and such other officers as may be provided by law. In counties where the board of supervisors by proper ordinance so elect, except as otherwise provided in this act, the duties of certain of the above-mentioned officers are hereby consolidated, as follows: sheriff and tax collector; auditor and recorder; county clerk, auditor and recorder; county clerk and recorder; county clerk and auditor; treasurer and tax collector; assessor and tax collector; public administrator and coroner. In counties where the duties of said officers have been, or may hereafter be, consolidated in either manner above designated, the board of supervisors thereof, by proper ordinance, may elect to separate the duties so consolidated, and reconsolidate them in any other manner above provided, or may separate said duties without reconsolidation, and provide that the duties of each office shall be performed by a separate person, whenever, in their discretion, the public interest will be best subserved thereby. When offices are united and consolidated, the person elected to fill the offices so united and consolidated must take the oath and give the bond required for each, discharge all the duties pertaining to each, and receive the compensation of the offices consolidated. [Amendment, Stats. 1905, 722.]

§ 55½. The live-stock inspector shall be appointed by the board of supervisors whenever in the discretion of the board of supervisors the interest of the public welfare demand the services of such an officer, and such officer shall hold his office at the pleasure of the appointing power. He shall receive a salary in the sum of one hundred and twenty-five dollars per month, which salary shall be paid at the same time and in the same manner and out of the same funds that other county officers are paid. [New section added, Stats. 1905, 722.]

§ 56. The officers of a township are two justices of the peace, two constables, and such subordinate officers as are provided by law. In townships containing cities in which city justices or recorders are elected, there shall be but one justice of the peace; except as hereinafter otherwise provided, and in townships having a population less than five thousand, there shall be but one justice of the peace and one constable, and except in townships containing a population of more than one hundred thousand and less than three hundred thousand, there shall be two justices of the peace. The board of supervisors of each county, as public convenience may require, shall divide their respective counties into townships for the purpose of electing justices of the peace and constables and shall appoint competent persons to fill the offices of justice of the peace and constable created by this act. But the provisions of this section shall not affect any present incumbent of the office of justice of the peace or constable. [Amendment, Stats. 1903, 129.]

§ 57. Whenever notice is required by law to be published in a newspaper by any county or township officer, the person for whom the notice is to be given shall pay to such officer, if required, the fees for such publication, in advance. And failure to publish any notice required by law pertaining to the duties of his office, shall be a misdemeanor.

§ 58. All elective county and township officers, and city justices of the peace, except otherwise provided for in this act, shall be elected at the general election at which the governor is elected, and shall take office at twelve o'clock meridian on the first Monday after the first day of January next succeeding their election. All officers elected under the provisions of this act shall hold office until their successors are elected or appointed and qualified. Supervisors shall be elected at the general election prior to expiration of the term of the incumbent. The supervisors of any county created after the first day of January, eighteen hundred and ninety-three, shall, within six months after the first general election succeeding the creation of such county, classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire in two years from such general election, and the term of office of the class having the lesser number shall terminate in four years from such general election.

§ 59. Every county, township, or district officer, except a supervisor or judicial officer, may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office. Such appointment must be made in writing, and filed in the office of the county clerk; and until such appointment is so made and filed, and until such deputy shall have taken the oath of office, no one shall be or act as such deputy.

§ 60. Whenever the official name of any principal officer is used in any law conferring power, or imposing duties or liabilities, it includes deputies.

§ 61. All county officers must have their offices at the county seat, and the sheriff, clerk, recorder, auditor, treasurer and district attorney must keep their offices open for the transaction of business from nine o'clock a. m. until five o'clock p. m., non-judicial days excepted.

§ 62. Whenever, except in criminal prosecutions, any special penalty, forfeiture or liability is imposed on any officer for non-performance or mal-

performance of official duties, the liability therefor attaches to the official bond of such officer, and to the principal and sureties thereon.

§ 63. Every officer mentioned in section fifty-five, and his deputies, and every justice of the peace, may administer and certify oaths.

§ 64. A county or township officer shall in no case absent himself from the state for a period of more than sixty days in any one year, and for no period without the consent of the board of supervisors of the county, except when on business for the state; provided, that in case of illness or urgent necessity, the board of supervisors may, on a proper showing of such illness or urgent necessity, extend the time herein limited, for the absence of any such officer, not to exceed six months.

§ 65. Sheriffs, clerks and constables, and their deputies, are prohibited from practising law, or acting as attorneys or counselors at law, in the counties where they reside and hold office, or from having as a partner a lawyer, or any one who acts as such, and no county officer, or his deputy, except district attorneys and treasurers, shall be eligible to the office of notary public, or perform the duties of the same.

§ 66. The board of supervisors of each county shall, on or before the first Monday in September, preceding the election of the following officers, prescribe the amount in which said officers must execute official bonds: Treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, surveyor, superintendent of schools, public administrator, coroner, justice of the peace and constable. The judge or judges of the superior court shall, on or before the said first Monday of September, prescribe the amount in which each member of the board of supervisors must execute an official bond before entering upon the discharge of the duties of his office. The bonds and sureties of such officers must, before the bonds can be recorded and filed, be approved by the judge, or judges, if there be more than one, of the superior court. All persons offered as sureties on official bonds may be examined on oath touching their qualifications, and no person can be admitted as surety on any such bond unless he is a resident and freeholder or householder within the state, and is worth in real or personal property, or both, situate in this state, the amount of his undertaking, over and above all sums for which he is already liable, exclusive of property exempt from execution and forced sale. All official bonds shall be recorded in the office of the county recorder, and then filed and kept in the office of the county clerk. The official bond of the county clerk shall, after being recorded, be filed and kept in the office of the county treasurer. The tax collector shall also before qualifying give a bond as license collector in such sum as may be fixed by the board of supervisors, to be approved as herein provided.

§ 66a. It shall be the duty of the board of supervisors of each county, on or before the first day of November of each year, to supply the secretary of the State Agricultural Society upon blanks to be furnished by him for that purpose, statistics showing the products grown, produced or manufactured in said county, for the year preceding, and the expense thereof shall be a county charge, to be paid as other county charges against the county. [New section added, Stats. 1905, 476.]

COUNTY TREASURER.

§ 67. The county treasurer must:

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, safely keep the same, and apply and pay them out, rendering the account thereof as required by law.

2. File and keep the certificates of the auditor delivered to him when moneys are paid into the treasury.

3. Keep an account of the receipt and expenditure of all such moneys, in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him; the amount, time when, to whom, and on what account all disbursements were made by him.

4. So keep his books that the amount received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.

5. Enter no moneys received for the current year on his account with the county for the past fiscal year, until after his annual settlement for the past year has been made with the county auditor.

6. Disburse the county moneys only on county warrants, issued by the county auditor, except on settlement with the state.

7. Disburse the moneys in the treasury on such warrants only when they are based on orders of the board of supervisors, or upon order of the superior court, or as otherwise provided by law.

§ 68. He must receive no money into the treasury unless accompanied by the certificate of the auditor, provided for in section one hundred and eleven.

§ 69. When any money is paid to the county treasurer he must give to the person paying the same a receipt therefor, which must forthwith be deposited with the county auditor, who must charge the treasurer therewith, and give the person paying the same a receipt.

§ 70. When a warrant is presented for payment, if there is money in the treasury for that purpose, he must pay the same and write on the face thereof "Paid," the date of payment, and sign his name thereto.

§ 71. When any warrant is presented to the treasurer for payment, and the same is not paid for want of funds, the treasurer must indorse thereon "Not paid for want of funds," with the date of presentation, and sign his name thereto, and from that time until paid the warrant bears five per centum interest per annum.

§ 72. When there are sufficient moneys in the treasury to pay the warrants drawing interest, the treasurer must give notice in some newspaper published in the county, or if none is published therein, then by written notice posted upon the court-house door, stating therein that he is ready to pay such warrants. From the first publication or posting of such notice, such warrants cease to draw interest.

§ 73. In advertising warrants under the provisions of the preceding section in any newspaper, the treasurer must not publish the warrants in detail, but give notice only that county warrants presented for payment prior to such a

date, stated in the notice, are payable. When a part only of the warrants presented for payment on the same day are payable, the treasurer must designate such payable warrants in the advertisement.

§ 74. Warrants drawn on the treasury, and properly attested, are entitled to preference as to payment out of the moneys in the treasury properly applicable to such warrants, according to the order in which they were presented. The time of presenting such warrants must be noted by the treasurer, and upon receipt of moneys into the treasury not appropriated, he must set apart the same, or so much thereof as is necessary for the payment of such warrants.

§ 75. Should such warrants not be again presented for payment within sixty days from the time the notice hereinbefore provided for is given, the fund set aside for the payment of the same must be by the treasurer applied to the payment of unpaid warrants next in order of registry. The board of supervisors may, on application and presentation of warrants properly indorsed, which have been advertised, pass an order directing the treasurer to pay them out of any money in the treasury not otherwise appropriated.

§ 76. When the treasurer pays any warrant upon which any interest is due, he must note on the warrant the amount of interest paid thereon and enter on his account the amount of such interest distinct from the principal.

§ 77. The treasurer must settle his accounts relating to the collection, care and disbursement of public revenue, of whatsoever nature and kind, with the auditor, on the first Monday of each month. For the purpose of making such settlement, he must make a statement, under oath, of the amount of money or other property received prior to the period of such settlement, the sources whence the same was derived, the amount of payments or disbursements, and to whom, with the amount remaining on hand. He must, in such settlements, deposit all warrants redeemed by him, and take the auditor's receipt therefor. He must also make a full settlement of all accounts with the auditor, annually, on the first Monday of January, in the presence of the supervisors.

§ 78. Each county treasurer must make a detailed report, at every regular meeting of the board of supervisors of his county, of all moneys received by him, and the disbursement thereof, and of all debts due to and from the county, and of all other proceedings in his office, so that the receipts into the treasury and the amounts of disbursements, together with the debts due to and from the county, may distinctly appear.

§ 79. If any county treasurer neglect or refuse to settle or report, as required in sections seventy-seven and seventy-eight, he forfeits and must pay to the county the sum of five hundred dollars for every such neglect or refusal, and the board of supervisors must institute suits for the recovery thereof.

§ 80. If the district attorney refuse or neglect to account for and pay over money received by him, as required by the fifth subdivision of section one hundred and thirty-two, he shall be liable for such refusal or neglect upon his official bond, and the county treasurer must bring an action against him for the recovery thereof, in the name of the county, and may recover in such action, in addition to the amount so received, fifty per centum thereon by way of damages. And no order of the board of supervisors shall be necessary to

bring such action. His reasonable expenses, including attorney's fees, shall be a county charge.

§ 81. The treasurer, upon receiving from the coroner, or justice of the peace acting as coroner, money found on a dead body, must place it to the credit of the county; on receiving other property in like manner, he must, within thirty days, sell it at public auction, upon reasonable public notice, and must, in like manner, place the proceeds to the credit of the county. All said moneys must be kept in a separate fund.

§ 82. If the money in the treasury is demanded within six years, by the legal representatives of the decedent, the treasurer must pay it to them, after deducting the fees and expenses of the coroner, and of the county, in relation to the matter, or the same may be so paid at any time thereafter, upon the order of the board of supervisors.

§ 83. The county treasurer must keep all moneys belonging to this state, or to any county of this state, in his own possession, until disbursed according to law. He must not place the same in the possession of any person, to be used for any purpose; nor must he loan, or in any manner use, or permit any person to use the same, except as provided by law; but nothing in this section prohibits him from making special deposits for the safe-keeping of the public moneys; but he shall be liable therefor on his official bond.

§ 84. Whenever an action, based upon official misconduct, is commenced against any county treasurer, the supervisors may, in their discretion, suspend him from office until such suit is determined, and may appoint some person to fill the vacancy, who shall qualify and give such bond as may be required by the board of supervisors.

§ 85. In case of the death of any county treasurer, his legal representatives must deliver up to the person appointed to fill the vacancy occasioned by such death, all official moneys, books, accounts, papers and documents which are or may come into their possession.

§ 86. The books, accounts and vouchers of the treasurer are at all times subject to the inspection and examination of the board of supervisors and grand jury.

§ 87. The treasurer must permit the chairman of the board of supervisors, district attorney and auditor to examine his books and count the money in the treasury, whenever they may wish to make an examination or counting.

SHERIFF.

§ 88. "Process," as used in this act, includes all writs, warrants, summonses and orders of courts of justice, or judicial officers. "Notice" includes all papers and orders (except process) required to be served in any proceeding before any court, board or officer, or when required by law to be served independently of such proceeding.

§ 89. The sheriff must:

1. Preserve the peace.
2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit, or who have committed, a public offense.

3. Prevent and suppress any affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

4. Attend all superior courts held within his county, and obey all lawful orders and directions of all courts held within his county.

5. Command the aid of as many male inhabitants of his county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail, and the prisoners therein.

7. Release on the record all attachments of real property, when the attachment placed in his hand has been released or discharged.

8. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time when received.

9. Serve all process and notices in the manner prescribed by law.

10. Certify, under his hand, upon process or notices, the manner and time of service, or if he fails to make service, the reason of his failure, and return the same without delay.

§ 90. When process or notices are returnable to another county, he may inclose such process or notice in an envelope, addressed to the officer from whom the same emanated, and deposit it in the post-office, prepaying postage.

§ 91. The return of the sheriff upon process or notices is *prima facie* evidence of the facts in such return stated.

§ 92. If a sheriff does not return a process or notice in his possession, with the necessary indorsement thereon, without delay, he is liable to the party aggrieved for the sum of two hundred dollars, and for all damages sustained by him.

§ 93. If the sheriff to whom a writ of execution is delivered neglects or refuses, after being required by the creditor or his attorney, the fees having first been paid or tendered, to levy upon or sell any property of the party charged in the writ, which is liable to be levied upon and sold, he is liable to the creditor for the value of such property.

§ 94. If he neglects or refuses to pay over, on demand, to the person entitled thereto, any money which may come into his hands by virtue of his office (after deducting all legal fees), the amount thereof, with twenty-five per centum damages, and interest at the rate of ten per centum per month, from the time of demand, may be recovered by such person.

§ 95. A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment is made, is liable as follows:

1. When the arrest is upon an order to hold to bail, or upon a surrender in exoneration of bail before judgment, he is liable to the plaintiff as bail.

2. When the arrest is on an execution or commitment to enforce the payment of money, he is liable for the amount expressed in the execution or commitment.

3. When the arrest is on an execution or commitment other than to enforce the payment of money, he is liable for the actual damages sustained.

4. Upon being sued for damages for an escape or rescue, he may introduce evidence in mitigation and exculpation.

§ 96. He is liable for the rescue of a person arrested in a civil action, equally as for an escape.

§ 97. An action cannot be maintained against the sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, if, after his rescue or escape, and before the commencement of the action, the prisoner returns to the jail, or is retaken by the sheriff.

§ 98. No direction or authority by a party or his attorney to a sheriff, in respect to the execution of process or return thereof, or to any act or omission relating thereto, is available to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing, signed by the attorney of the party, or by the party, if he has no attorney.

§ 99. When the sheriff is committed, under an execution or commitment, for not paying over money received by him by virtue of his office, and remains committed for sixty days, his office is vacant.

§ 100. A sheriff or other ministerial officer is justified in the execution of, and must execute, all process and orders regular on their face, and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued.

§ 101. The officer executing process must then, and at all times subsequent, so long as he retains it, upon request, show the same, with all papers attached, to any person interested therein.

§ 102. The sheriff in attendance upon court must act as the crier thereof, call the parties and witnesses, and all other persons bound to appear at the court, and make proclamation of the opening and adjournment of the court, and of any other matter under its direction.

§ 103. Service of a paper, other than process, upon the sheriff may be made by delivering it to him or to one of his deputies, or to a person in charge of the office during office hours; or, if no such person be there, by leaving it in a conspicuous place in the office. When any process remains with the sheriff unexecuted, in whole or in part, at the time of his death, resignation of office, or at the expiration of his term of office, said process shall be executed by his successor or successors in office; and when the sheriff sells real estate, under and by virtue of an execution or order of court, he or his successors in office shall execute and deliver to the purchaser or purchasers all such deeds and conveyances as are required by law and necessary for the purpose, and such deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale.

§ 104. When the sheriff is a party to an action or proceeding, the process and orders therein, which it would otherwise be the duty of the sheriff to execute, must be executed by the coroner of the county; provided, when any action is begun against the sheriff, all process and orders may be served by any person, a citizen of the United States over the age of eighteen years, in the manner provided in the Code of Civil Procedure.

§ 105. Process or orders in an action or proceeding may be executed by a

person residing in the county, designated by the court, or the judge thereof, and denominated an elisor, in the following cases:

1. When the sheriff and coroner are both parties;
2. When either of these officers is a party, and the process is against the other; and
3. When either of these officers is a party, and there is a vacancy in the office of the other, or where it appears, by affidavit, to the satisfaction of the court in which the proceeding is pending, or the judge thereof, that both of these officers are disqualified, or by reason of any bias, prejudice or other cause, would not act promptly or impartially.

When process is delivered to an elisor, he must execute and return it in the same manner as the sheriff is required to execute similar process. Whenever process is executed, or any act performed by a coroner or elisor, in the cases provided by law in that behalf, such coroner or elisor shall be entitled to receive a reasonable compensation, to be fixed by the court, to be paid by the plaintiff in case of the summoning of jurors to complete the panel, and by the person or party requiring the service in all other cases in private action. If rendered at the instance of the people, it shall be audited and paid as a county charge.

§ 106. The sheriff must perform such other duties as are required by law.

COUNTY CLERK.

§ 107. The county clerk must:

1. Take charge of and safely keep, or dispose of, according to law, all books, papers and records which may be filed or deposited in his office.

2. Act as clerk of the board of supervisors and as clerk of the superior court, and attend each session thereof, and upon the judge at chambers, when required.

3. Issue all process and notices required to be issued; enter a synopsis of all orders, judgments and decrees proper to be entered, unless the court shall order them to be entered at length; keep in the superior court a docket, in which must be entered the title of each cause, with the date of its commencement; a memorandum of every subsequent proceeding therein, with date thereof, and a list of all the fees charged.

4. Keep for the superior court an index of all suits, labeled "general index—plaintiffs," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of suit," "plaintiffs," "defendants," "date of judgment," "number of judgment," "page of entry of judgment in judgment book," "page of minute book"; also an index, labeled "general index—defendants," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of suit," "defendants," "plaintiffs," "date of judgment," "number of judgment," "page of entry of judgment in judgment book," "page in order book;" keep an index of the names of persons naturalized.

§ 108. He must keep such other records and perform such other duties as are prescribed by law.

COUNTY AUDITOR.

§ 109. The auditor must issue warrants as provided in section forty-one, on the county treasurer, in favor of all persons entitled thereto, in payment of all claims and demands chargeable against the county, which have been legally

examined, allowed and ordered paid by the board of supervisors. The auditor must also issue warrants on the county treasurer for all debts and demands against the county, when the amounts are fixed by law, or are authorized by law to be allowed by some person or tribunal other than the board of supervisors.

§ 110. All warrants must distinctly specify the liability for which they are drawn, and when it accrued.

§ 111. The auditor must examine and settle the accounts of all persons or officers indebted to the county, or holding moneys payable into the county treasury, and must certify the amount to the treasurer, and upon the presentation and filing of the treasurer's receipt therefor, give to such persons a discharge, and charge the treasurer with the amount received by him.

§ 112. The auditor must keep accounts current with the treasurer, and when any person deposits with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor must file such receipt, and charge the treasurer with the amount thereof.

§ 113. All warrants issued by the auditor during each year, commencing with the first Monday after the first day of January, must be numbered consecutively, and the number, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, must be stated thereon; and they must, at the time they are issued, be registered by him, and after such warrants have remained uncalled for for two years they shall be canceled.

§ 114. The auditor must, between the first and tenth day of each month, examine the books of the treasurer and see that the same have been correctly kept.

§ 115. The chairman of the board of supervisors, district attorney and auditor, must, at least once in each month, count the money in the county treasury, and make and verify, in duplicate, statements showing:

1. The amount of money that ought to be in the treasury.
2. The amount and kind of money actually therein.

§ 116. They must file one of the statements in the office of the county clerk, and the auditor must post and maintain the other in his office for at least one month thereafter.

§ 117. The auditor and treasurer of each county must, on the first Monday in February, May, August, and November, and at such other times as the board of supervisors may require, make a joint statement to the board of supervisors, showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury; the funds among which the same are distributed, and the amount to each; the total amount of warrants drawn and paid, and on what fund; the total amount of warrants drawn and unpaid, and accounts or claims audited or allowed and unpaid, and the fund out of which they are to be paid, and generally make a full and specific showing of the financial condition of the county. The board of supervisors shall cause to be prepared, and shall publish each year a statistical report showing in compendious form all the financial transactions of the county for the last fiscal year, exhibiting separately the receipts and expenditures by or on account of each office, board,

commission, institution, court, and road district and school district, and classifying the principal items of income and expenditure, so as to show the financial transactions and the financial condition of the county. [Amendment, Stats. 1901, 686.]

§ 118. The auditor must discharge such other duties as are required by law.

COUNTY RECORDER.

§ 119. The recorder must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of supervisors. The books used may contain printed forms of deeds, mortgages or other instruments of general use. He has the custody of, and must keep all books, records, maps and papers deposited in his office.

§ 120. He must, upon the payment of his fees for the same, record, separately, in large and well-bound separate books, in a fair hand:

1. Deeds, grants, transfers and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged and approved.

2. Mortgages of personal property.

3. Certificates of marriage and marriage contracts.

4. Wills admitted to probate.

5. Official bonds.

6. Notice of mechanics' liens.

7. Transcripts of judgments, which by law are made liens upon real estate.

8. Notices of attachments upon real estate.

9. Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.

10. Instruments describing or relating to the separate property of married women.

11. Births and deaths; and,

12. Such other writings as are required or permitted by law to be recorded.

§ 121. Every recorder must keep:

1. An index of deeds, grants and transfers, labeled "Grantors," each page divided into four columns, headed, respectively: "Names of grantors," "names of grantees," "date of deeds, grants or transfers" and "where recorded."

2. An index of deeds, labeled "Grantees," each page divided into four columns, headed, respectively: "Names of grantees," "names of grantors," "date of deeds, grants or transfers," and "where recorded."

3. Two indexes of mortgages, labeled, respectively: "Mortgagers of real property," "Mortgagers of personal property," with the pages thereof divided into five columns, headed, respectively: "Names of mortgagers," "names of mortgagees," "date of mortgages," "where recorded," "when discharged."

4. To indexes of mortgages, labeled, respectively: "Mortgagees of real property," "Mortgagees of personal property," with the pages thereof divided into five columns, headed, respectively: "Names of mortgagees," "names of mortgagers," "date of mortgages," "where recorded," "when discharged."

5. Two indexes of releases of mortgages, labeled respectively: "Releases of mortgages of real property—mortgagers," "Releases of mortgages of personal

property—mortgagers,” with pages thereof divided into six columns, headed, respectively: “Parties releasing,” “to whom releases are given,” “date of releases,” “where releases are recorded,” “date of mortgages released,” “where mortgages released are recorded.”

6. Two indexes of releases of mortgages, labeled, respectively: “Releases of mortgages of real property—mortgagees,” “Releases of mortgages of personal property—mortgagees,” with pages thereof divided into four columns, headed, respectively: “Parties whose mortgages are released,” “parties releasing,” “date of releases,” “where recorded.”

7. An index of powers of attorney, labeled: “Powers of attorney,” each page divided into five columns, headed, respectively: “Names of parties executing the powers,” “to whom powers are executed,” “date of powers,” “date of recording,” “where powers are recorded.”

8. An index of leases, labeled: “Leases—lessors,” each page divided into four columns, headed, respectively: “Names of lessors,” “names of lessees,” “date of leases,” “when and where recorded.”

9. An index of leases, labeled: “Leases—lessees,” each page divided into four columns, headed, respectively: “Names of lessees,” “names of lessors,” “date of leases,” “when and where recorded.”

10. An index of marriage certificates, labeled: “Marriage certificates—men,” each page divided into six columns, headed, respectively: “Men married,” “to whom married,” “when married,” “by whom married,” “where married,” “where certificates are recorded.”

11. An index of marriage certificates, labeled: “Marriage certificates—women,” each page divided into six columns, headed, respectively: “Women married” (and under this head placing the family names of the women), “to whom married,” “when married,” “by whom married,” “where married,” “where certificates are recorded.”

12. An index of assignments of mortgages and leases, labeled: “Assignments of mortgages and leases—assignors,” each page divided into five columns, headed, respectively: “Assignors,” “assignees,” “instruments assigned,” “date of assignment,” “when and where recorded.”

13. An index of assignments of mortgages and leases, labeled: “Assignments of mortgages and leases—assignees,” each page divided into five columns, headed, respectively: “Assignees,” “assignors,” “instruments assigned,” “date of assignment,” “when and where recorded.”

14. An index of wills, labeled: “Wills,” each page divided into four columns, headed, respectively: “Names of testators,” “date of wills,” “date of probate,” “when and where recorded.”

15. An index of official bonds, labeled: “Official bonds,” each page divided into five columns, headed, respectively: “Names of officers,” “names of offices,” “date of bonds,” “amount of bonds,” “when and where recorded.”

16. An index of notices of mechanics’ liens, labeled: “Mechanics’ liens,” each page divided into three columns, headed, respectively: “Parties against whom claimed,” “parties claiming liens,” “notices—when and where recorded.”

17. An index to transcripts of judgments, labeled: “Transcripts of judgments,” each page divided into seven columns, headed, respectively: “Judg-

ment debtors," "judgment creditors," "amount of judgments," "where recovered," "when recovered," "when transcript filed," "when judgment satisfied."

18. An index of attachments, labeled: "Attachments," each page divided into six columns, headed, respectively: "Parties against whom attachments are issued," "parties issuing attachments," "notices of attachments," "when recorded," "where recorded," "when attachments discharged."

19. An index of notices of the pendency of actions, labeled: "Notices of actions," each page divided into three columns, headed, respectively: "Parties to the action," "notices—when recorded," "where recorded."

20. An index of the separate property of married women, labeled: "Separate property," each page divided into five columns, headed, respectively: "Names of married women," "names of their husbands," "nature of instruments recorded," "when recorded," "where recorded."

21. An index to the register of births and deaths.

22. Such other books of record and indexes as are or may be required by law.

23. An index of decrees of distribution in probate, labeled: "Decrees of distribution," divided into six columns, headed, respectively: "Whose estate," "name of administrator," "names of distributees," "date of decree," "in what court," "where recorded."

§ 122. The recorder must keep in his office a book, to be called "Certificates of sales," and record therein all certificates of sales of real estate sold under execution, or under order made in any judicial proceeding. He must also prepare an index thereto, in which, in separate columns, he must enter the names of the plaintiff in the execution, the defendant in the execution, the purchaser at the sale, and the date of the sale.

§ 123. The recorder must file and record with the record of deeds, grants, and transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property, any part of which is situate in the county of which he is recorder.

§ 124. Every such certified copy of partition, from the time of filing the same with the recorder for record, imparts notice to all persons of the contents thereof; and subsequent purchasers, mortgagees, and lienholders purchase and take with like notice and effect as if such copy of decree was a duly recorded deed, grant or transfer.

§ 125. The recorder may keep in the same volume any two or more of the indexes mentioned in section one hundred and twenty-one; but the several indexes must be kept distinct from each other, and the volume distinctly marked on the outside in such a way as to show all the indices kept therein. The names of the parties in the first column in the several indexes must be arranged in alphabetical order, and when a conveyance is executed by a sheriff, the name of the sheriff and the party charged in the execution must both be inserted in the index; and when an instrument is recorded to which an executor, administrator, or trustee is a party, the name of such executor, administrator, or trustee, together with the name of the testator, or intestate, or party for whom the trust is held, must be inserted in the index.

§ 126. When any instrument, paper, or notice, authorized by law to be

recorded, is deposited in the recorder's office for record, the recorder must indorse upon the same the time when it was received, noting the year, month, day, hour, and minute of its reception, the amount of fees for recording, and must record the same without delay, together with the acknowledgments, proofs, and certificates, written upon or annexed to the same, with the plats, surveys, schedule, and other papers thereto annexed, in the order in which the same were received for record, and must note at the foot of the record the exact time of its reception, and the name of the person at whose request it was recorded.

§ 127. He must also indorse upon each instrument, paper, or notice the time when, the book and pages in which it is recorded, and must thereafter deliver it to the party leaving the same for record, or upon his order.

§ 128. It shall be the duty of the recorder, upon the payment or tender of the fees therefor, to take and certify the acknowledgment of all instruments authorized by law to be acknowledged.

§ 129. If any recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record:

1. Neglects or refuses to record such instrument, paper, or notice within a reasonable time after receiving the same; or,
2. Records any instrument, paper, or notice, wilfully or negligently, untruly, or in any other manner than is hereinbefore directed; or,
3. Neglects or refuses to keep in his office such indexes as are required by this article, or to make the proper entries therein; or,
4. Alters, changes, or obliterates any records deposited in his office, or inserts any new matter therein, he is liable to the party aggrieved for three times the amount of the damages which may be occasioned thereby.

§ 130. He shall not record any instrument, or file any paper or notice, or furnish any copy, or render any service connected with his office, until his fees for the same, as prescribed by law, are, if demanded, paid or tendered.

§ 131. All books of record, maps, charts, surveys, and other papers on file in the recorder's office, must, during office hours, be open for inspection by any person, without charge; and the recorder must arrange the books of record and indexes in his office in such suitable places as to facilitate their inspection.

DISTRICT ATTORNEY.

§ 132. The district attorney is the public prosecutor, and must:

1. Attend the courts, and conduct, on behalf of the people, all prosecutions for public offenses.
2. Institute proceedings before the magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the superior court, or in civil cases on behalf of the people, must attend upon the magistrates in cases of arrest, when required by them, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration.
3. Draw all indictments and informations, defend all suits brought in his

county, against the state or his county wherever brought, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer.

5. On the first Monday of each month file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceeding month, and at the same time pay them over to the county treasurer.

6. Give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices.

§ 133. The district attorney is the legal adviser of the board of supervisors. He must attend their meetings, when required, and must attend and oppose all claims and accounts against the county, when he deems them unjust and illegal.

§ 134. The district attorney, except for his own services, must not present any claim, account or demand for allowance against the county, nor in any way advocate the relief asked on any claim or demand made by another.

COUNTY SURVEYOR.

§ 135. The county surveyor must be a licensed land surveyor of the state, and must make any survey that may be required by order of court or of the board of supervisors, or upon application of any person; keep a correct and fair record of all surveys made by him, number them in the order made, and preserve a copy of the field-notes and calculations of each survey, and indorse thereon its proper number; a copy of the same, and a fair and accurate plat, together with a certificate of survey, must upon application, be furnished by him to any person, upon payment of the fees allowed by law.

§ 136. Any person owning or claiming lands which are divided by county lines, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated, and on such application being made, the surveyor must make the survey, which is as valid as though the lands were situated entirely within the county.

§ 137. When land, the title to which is in dispute before any court, is divided by a county line, the court making an order of survey may direct the order to the surveyor of any county in which any part of the land is situated. In all surveys the courses must be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian must be expressed on the plat, with the date of the survey.

§ 138. Each county surveyor must, when required, aid and assist the surveyor-general in making surveys within the county. When the county surveyor is interested in any land, the title to which is in dispute, and a survey thereof is necessary, the court must direct the survey to be made by some disinterested person, and the person so appointed is for that purpose authorized to administer and certify oaths. He must return such survey, verified by his affidavit annexed thereto, and receive for his services the same fees as the county surveyor would be entitled to for similar service.

§ 139. The county surveyor shall copy, plat, or trace all maps filed for record in the office of the county recorder of the county for which he shall be elected, and shall be ex officio deputy county recorder for said county for such purposes at the cost of the party filing the same for record; provided, however, that all maps and plats filed by a licensed land surveyor, and such other maps and plats as are filed and are thereby made a record, are exempt from the provisions of this act. The county surveyor shall plat, trace, blueprint, or otherwise make all county, township, road, district, and all other maps, and all assessor's block books, for the county of which he is surveyor. All such maps which are platted, traced, blue-printed, or otherwise made as aforesaid, shall be filed in the county surveyor's office, together with all data obtained by the county surveyor from other sources, and the same thereafter shall become the property of the county.

§ 140. The county surveyor shall make such surveys of county roads, and perform such other engineering work as the board of supervisors may direct. All such maps and field-notes of surveys shall be filed in the office of the county surveyor, and the same shall thereafter be and remain the property of the county. It shall be the duty of the county surveyor to advise the board of supervisors regarding all engineering work, and to perform such engineering work for the county as may be required by the board of supervisors.

§ 141. The board of supervisors of each county shall provide, for the use of the county surveyor, a suitable office, office furniture, heat, light, and care for the same, office and record books, and other necessary material, also all necessary expenses and transportation on work performed in the field. In lieu of fees, as now provided by law, the county surveyor shall receive such compensation as the board of supervisors may allow, not to exceed ten dollars per day for all work performed by the county, and in addition thereto, all necessary expenses and transportation on work performed in the field.

COUNTY CORONER.

§ 142. The coroner must hold inquests as prescribed by chapter two, title twelve, part two, of the Penal Code. The coroner, or other officer holding the inquest upon the body of a deceased person, may subpoena a chemist to make an analysis of the contents of the stomach or of the tissues of the body, or a physician or surgeon to inspect the body, or hold a post-mortem examination of the deceased, and give a professional opinion as to the cause of death, and shall cause the testimony given by the witness to be reduced to writing, under his direction, and may, upon the written order of the district attorney, employ a clerk or stenographer for such purpose, at the same compensation allowed to stenographers in the superior court of the county; and when such testimony is taken down by a stenographer, his transcription thereof, duly certified to, shall constitute the deposition of such witness.

§ 143. When an inquest is held by the coroner, and no other person takes charge of the body of deceased, he must cause it to be decently interred; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of the burial, the expenses are a legal charge against the county.

§ 144. It shall be the duty of the coroner of each county to keep an official

register, to be labeled "Coroner's Register," in which he shall enter the date of holding all inquests, the name of the deceased, when known, and when not, such description of the deceased as may be sufficient for identification; property found on the person of deceased, if any; what disposition was made of the same by the coroner; the cause of death, when known, and such other information as may pertain to the identity of the deceased.

§ 145. The coroner must, within thirty days after an inquest upon a dead body, deliver to the county treasurer, or the legal representatives of the deceased, any money or other property found upon the body, and at the same time file an affidavit with the treasurer, showing:

1. The amount of money or other property belonging to the estate of the deceased person which has come into his possession since his last statement.

2. The disposition made of such property.

3. If the coroner, or any justice of the peace acting as coroner, fail to deliver to the treasurer, within thirty days after any inquest upon a dead body, all money and property found upon such body, unless claimed in the mean time by the public administrator, or other legal representative of the decedent, as required by this section, the district attorney must proceed against the coroner or justice of the peace acting as coroner, to recover the same, by civil action, in the name of the county.

§ 146. If the office of coroner is vacant, or he is absent, or unable to attend, the duties of his office may be discharged by any justice of the peace of the county, with the like authority, and subject to the same obligations and penalties as the coroner.

§ 147. In the cases specified in section one hundred and four, the coroner must discharge the duties of sheriff.

[OTHER OFFICERS.]

§ 148. The assessor must perform such duties as are prescribed in title nine, part three, of the Political Code, and such other duties as are required by law; provided, that where any salary is allowed to the assessor, by law, then where such officer is charged, or to be charged, with the making of maps or block books, he shall be allowed the actual cost of making the same, and must file with the county auditor a sworn statement, monthly, showing in detail the names of persons, and amounts paid to each for such expense, and the assessor must thereupon pay over and account to the county, or city and county, for the difference between any amount allowed for such purpose, and the amount actually expended by him therefor.

§ 149. The tax collector must perform such duties as are prescribed in title nine, part three, of the Political Code, and as license collector shall collect all county licenses, and shall perform such other duties as are required by law. He shall, at least once a month and oftener, in his discretion, pay the public money in his hands into the county treasury, taking the receipt of the treasurer therefor.

§ 150. The school superintendent must perform such duties as are prescribed in title three, part three, of the Political Code, and shall perform such other duties as are required by law.

§ 151. The public administrator must perform such duties as are prescribed in chapter thirteen, title eleven, part three, of the Code of Civil Procedure, and shall perform such other duties as are required by law.

§ 152. It shall be the duty of the public administrator to keep a book, to be labeled "Register of Public Administrator," in which he shall enter the name of every deceased person on whose estate he shall administer, the date of granting letters, money received, the property appraised and its value, proceeds of all sales of property, the amount of his fees, the expenses of administration, the amount of estate after all charges and expenses have been paid, the disposition of property on distribution, the date of discharge of administrator, and such other matters as may be necessary to give a full and complete history of each estate administered by him. The publication of the semiannual report required to be made by the public administrator shall be a county charge.

§ 152½. It shall be the duty of the live-stock inspector, acting under the supervision of the state veterinarian, to enforce all laws of the state of California, and all orders and ordinances of the board of supervisors of his county pertaining to the health and sanitary surroundings of all live stock in his county, and for that purpose he is hereby authorized and empowered, by and with the approval of the board of supervisors, to establish, maintain, and enforce such quarantine, sanitary and other regulations as he may deem proper and necessary. He shall give to the duties of his office such time and attention as may be necessary to secure the general protection and advancement of all matters pertaining to the health and sanitary condition of the domestic live stock of his county. [New section added, Stats. 1905, 723.]

§ 153. Constables must attend the courts of justices of the peace within their townships whenever so required, and within their counties execute, serve and return all writs, processes and notices directed or delivered to them by justices of the peace of such county, or by any competent authority; provided however, that no constable shall have jurisdiction or authority to serve any writ, notice, or other process issued by any justice or justice's court of any township other than the justice or justice's court of the township in and for which he may be constable without the boundaries of the township in and for which he is constable, and any service by a constable of any writ, notice, or other process issued by any justice or justice's court of any township other than the township in and for which he is duly elected and qualified constable, outside of the boundaries of the township in and for which he is such constable, shall be void. Constables shall charge and collect for their services such fees as are now or may hereafter be allowed. [Amendment, Stats. 1905, 393.]

§ 154. All provisions of sections eighty-eight, eighty-nine, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, and one hundred and three, except, the fourth and sixth subdivisions of section eighty-nine, apply to constables, and govern their powers, duties, and liabilities.

§ 155. Justices of the peace must perform such duties as are prescribed in title eleven, part two, of the Code of Civil Procedure, and such other duties as are prescribed by law.

§ 156. The salaries of officers must be paid monthly from the county salary fund of the treasury, on the warrant of the auditor.

§ 157. For the purpose of regulating the compensation of all officers herein

provided for, the several counties of this state are hereby classified, according to their population (as ascertained and determined in section ten), as follows, to wit:

All counties containing a population of three hundred thousand and over shall belong to and be known as counties of the first class.

Counties containing a population of one hundred and fifty thousand and under three hundred thousand shall belong to and be known as counties of the second class.

Counties containing a population of one hundred thousand and under one hundred and fifty thousand shall belong to and be known as counties of the third class.

Counties containing a population of fifty thousand and under one hundred thousand shall belong to and be known as counties of the fourth class.

Counties containing a population of forty thousand and under fifty thousand shall belong to and be known as counties of the fifth class.

Counties containing a population of thirty-eight thousand and under forty thousand shall belong to and be known as counties of the sixth class.

Counties having a population of thirty-six thousand and under thirty-eight thousand shall belong to and be known as counties of the seventh class.

Counties having a population of thirty-five thousand four hundred and under thirty-six thousand shall belong to and be known as counties of the eighth class.

Counties having a population of thirty-five thousand and under thirty-five thousand four hundred shall belong to and be known as counties of the ninth class.

Counties having a population of twenty-seven thousand four hundred and under thirty-five thousand shall belong to and be known as counties of the tenth class.

Counties having a population of twenty-seven thousand and under twenty-seven thousand four hundred shall belong to and be known as counties of the eleventh class.

Counties having a population of twenty-four thousand and under twenty-seven thousand shall belong to and be known as counties of the twelfth class.

Counties having a population of twenty-one thousand and under twenty-four thousand shall belong to and be known as counties of the thirteenth class.

Counties having a population of twenty thousand and under twenty-one thousand shall belong to and be known as counties of the fourteenth class.

Counties having a population of nineteen thousand five hundred and under twenty thousand shall belong to and be known as counties of the fifteenth class.

Counties having a population of nineteen thousand and under nineteen thousand five hundred shall belong to and be known as counties of the sixteenth class.

Counties having a population of eighteen thousand five hundred and under nineteen thousand shall belong to and be known as counties of the seventeenth class.

Counties having a population of eighteen thousand two hundred and under eighteen thousand five hundred shall belong to and be known as counties of the eighteenth class.

Counties having a population of eighteen thousand and under eighteen thou-

sand two hundred shall belong to and be known as counties of the nineteenth class.

Counties having a population of seventeen thousand eight hundred and under eighteen thousand shall belong to and be known as counties of the twentieth class.

Counties having a population of seventeen thousand five hundred and under seventeen thousand eight hundred shall belong to and be known as counties of the twenty-first class.

Counties having a population of seventeen thousand three hundred and under seventeen thousand five hundred and fifty shall belong to and be known as counties of the twenty-second class.

Counties having a population of seventeen thousand and under seventeen thousand three hundred shall belong to and be known as counties of the twenty-third class.

Counties having a population of sixteen thousand seven hundred and fifty and under seventeen thousand shall belong to and be known as counties of the twenty-fourth class.

Counties having a population of sixteen thousand five hundred and under sixteen thousand seven hundred and fifty shall belong to and be known as counties of the twenty-fifth class.

Counties having a population of sixteen thousand four hundred and seventy-five and under sixteen thousand five hundred shall belong to and be known as counties of the twenty-sixth class.

Counties having a population of sixteen thousand and under sixteen thousand four hundred and seventy-five shall belong to and be known as counties of the twenty-seventh class.

Counties having a population of fifteen thousand seven hundred and fifty and under sixteen thousand shall belong to and be known as counties of the twenty-eighth class.

Counties having a population of fifteen thousand and under fifteen thousand seven hundred and fifty shall belong to and be known as counties of the twenty-ninth class.

Counties having a population of fourteen thousand and under fifteen thousand shall belong to and be known as counties of the thirtieth class.

Counties having a population of thirteen thousand and under fourteen thousand shall belong to and be known as counties of the thirty-first class.

Counties having a population of twelve thousand and under thirteen thousand shall belong to and be known as counties of the thirty-second class.

Counties having a population of eleven thousand one hundred and seventy-five and under twelve thousand one hundred shall belong to and be known as counties of the thirty-third class.

Counties having a population of eleven thousand one hundred and fifty and under eleven thousand one hundred and seventy-five shall belong to and be known as counties of the thirty-fourth class.

Counties having a population of eleven thousand and under eleven thousand one hundred and fifty shall belong to and be known as counties of the thirty-fifth class.

Counties having a population of ten thousand and under eleven thousand shall belong to and be known as counties of the thirty-sixth class.

Counties having a population of nine thousand seven hundred and fifty and under ten thousand shall belong to and be known as counties of the thirty-seventh class.

Counties having a population of nine thousand five hundred and under nine thousand seven hundred and fifty shall belong to and be known as counties of the thirty-eighth class.

Counties having a population of nine thousand and under nine thousand five hundred shall belong to and be known as counties of the thirty-ninth class.

Counties having a population of eight thousand seven hundred and fifty and under nine thousand shall belong to and be known as counties of the fortieth class.

Counties having a population of eight thousand and under eight thousand seven hundred and fifty shall belong to and be known as counties of the forty-first class.

Counties having a population of seven thousand and under eight thousand shall belong to and be known as counties of the forty-second class.

Counties having a population of six thousand five hundred and under seven thousand shall belong to and be known as counties of the forty-third class.

Counties having a population of six thousand two hundred and fifty and under six thousand five hundred shall belong to and be known as counties of the forty-fourth class.

Counties having a population of six thousand and under six thousand two hundred and fifty shall belong to and be known as counties of the forty-fifth class.

Counties having a population of five thousand five hundred and under six thousand shall belong to and be known as counties of the forty-sixth class.

Counties having a population of five thousand one hundred and under five thousand five hundred shall belong to and be known as counties of the forty-seventh class.

Counties having a population of five thousand and under five thousand one hundred shall belong to and be known as counties of the forty-eighth class.

Counties having a population of four thousand seven hundred and under five thousand shall belong to and be known as counties of the forty-ninth class.

Counties having a population of four thousand six hundred and under four thousand seven hundred shall belong to and be known as counties of the fiftieth class.

Counties having a population of four thousand five hundred and under four thousand six hundred shall belong to and be known as counties of the fifty-first class.

Counties having a population of four thousand three hundred and eighty and under four thousand five hundred shall belong to and be known as counties of the fifty-second class.

Counties having a population of four thousand two hundred and under four thousand three hundred and eighty shall belong to and be known as counties of the fifty-third class.

Counties having a population of four thousand and under four thousand two hundred shall belong to and be known as counties of the fifty-fourth class.

Counties having a population of two thousand two hundred and under four thousand shall belong to and be known as counties of the fifty-fifth class.

Counties having a population of two thousand and under two thousand two hundred shall belong to and be known as counties of the fifty-sixth class.

Counties having a population of under two thousand shall belong to and be known as counties of the fifty-seventh class. [Amendment, Stats. 1901, 687.]

§ 158. In counties of the first class the officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the salaries and fees fixed by law as compensation; provided, that this shall not be construed as adding any additional compensation to any officer; provided, however, that the sheriff shall also be allowed mileage for the service of any paper required by law to be served, at the rate of fifteen cents per mile for one way only, to be paid by the person requiring such service.

§ 159. In counties of the second class the county and township officers shall receive, as compensation for the services required of them by law, the following salaries, to wit:

1. The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk the following clerks and deputies, who shall be appointed by the county clerk, and shall be paid salaries as follows: One chief deputy at a salary of one hundred and fifty dollars per month; one deputy who shall be registry clerk at a salary of one hundred and thirty-five dollars per month; one deputy who shall be an assistant registry clerk, at a salary of one hundred dollars per month; one deputy who shall be clerk of the board of supervisors, at a salary of one hundred and twenty-five dollars per month; nine deputies who shall be courtroom clerks, at a salary of one hundred and fifteen dollars each per month; one deputy who shall be judgment clerk, at a salary of one hundred and twenty-five dollars per month; one deputy who shall be an assistant judgment clerk, at a salary of one hundred dollars per month; one deputy who shall be a file clerk, at a salary of one hundred dollars per month; one deputy who shall be an index clerk, at a salary of one hundred dollars per month; one deputy who shall be in charge of the criminal records, at a salary of one hundred dollars per month; two deputies at a salary of one hundred dollars each per month; one deputy who shall be assistant clerk of the board of supervisors, at a salary of one hundred dollars per month; one deputy who shall be a stenographer, at a salary of one hundred dollars per month; one deputy who shall be a stenographer for the board of supervisors, at a salary of one hundred dollars per month; one deputy who shall be miscellaneous department clerk, at a salary of one hundred and fifteen dollars per month; one deputy at a salary of one hundred and fifteen dollars per month; six deputies, at a salary of seventy-five dollars each per month, for not exceeding one month for any one year. The salaries of the deputies and clerks herein provided for shall be paid by said county in monthly instalments at the same time, in the same manner and out of the same fund as the salary of the county clerk is paid.

2. The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff an under-

sheriff and the following deputies and stenographers who shall be appointed by the sheriff of said county, and shall be paid salaries as follows, to wit: One under-sheriff, at a salary of one hundred and fifty dollars per month; one deputy who shall be a bookkeeper, at a salary of one hundred and twenty-five dollars per month; one deputy who shall be an assistant bookkeeper, at a salary of one hundred and ten dollars per month; one deputy at a salary of one hundred and twenty-five dollars per month; ten deputies at a salary of one hundred dollars each per month; nine deputies who shall be court bailiffs, at a salary of ninety dollars each per month; five deputies who shall be turnkeys at the county jail, at a salary of ninety dollars each per month; one jail matron, at a salary of fifty dollars per month; one stenographer, at a salary of seventy-five dollars per month. The salaries of the under-sheriff, the matron, and all deputies and stenographers herein provided for shall be paid by said county in monthly instalments at the same time, in the same manner, and out of the same fund that the salary of the sheriff is paid. The sheriff shall also receive the amount of money necessarily expended by him in serving all processes and notices, and the same shall be charged against the county and allowed as such by the board of supervisors, and paid as other county charges are paid. In case of sale of property on foreclosure of mortgage or on execution, the sheriff shall be entitled to receive all necessary expenses of keeping the property and of advertising the sale.

3. The recorder, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed the recorder the following deputies and copyists, who shall be appointed by the recorder of said county and shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; two deputies at a salary of one hundred and twenty-five dollars each per month; four deputies, at a salary of one hundred dollars each per month; ten deputies, at a salary of ninety dollars each per month; and as many copyists as may be required, who shall receive as compensation for their services the sum of seven cents per folio for recording any instrument and notice, except maps or plats; for copies of any record or paper, seven cents per folio. The salaries and compensation of all deputies and copyists herein provided for shall be paid by the county in monthly instalments, at the same time, in the same manner, and out of the same fund as the salary of the county recorder is paid.

4. The auditor, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the auditor the following deputies, clerks and assistants, who shall be appointed by the auditor, and who shall be paid salaries as follows: One chief deputy at a salary of one hundred and fifty dollars per month; one deputy at a salary of one hundred and twenty-five dollars per month; two deputies, at a salary of one hundred and ten dollars each per month; four deputies, at a salary of one hundred dollars each per month; and forty clerks at a salary of ninety dollars each per month, for not to exceed one month each in any one year; and such additional assistants as the auditor may require, and whose compensation in the aggregate shall not exceed the sum of one thousand two hundred and fifty dollars in any one year. The salaries of the deputies, clerks and assistants herein provided for shall be paid by the county in monthly

instalments, at the same time, in the same manner, and out of the same fund as the salary of the auditor is paid.

5. The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the treasurer the following deputies, who shall be appointed by the treasurer, and who shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; one deputy at a salary of one hundred and fifteen dollars per month; and one deputy at a salary of one hundred dollars per month. The salaries of the deputies herein provided for shall be paid by said county in monthly instalments, at the same time, in the same manner, and out of the same fund as the salary of the treasurer.

6. The tax collector, three thousand six hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector the following deputies, stenographers and clerks, who shall be appointed by the tax collector, and who shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; one deputy who shall be chief report clerk, at a salary of one hundred and fifteen dollars per month; one deputy who shall be report clerk, at a salary of one hundred and ten dollars per month; one deputy who shall be cashier, at a salary of one hundred and fifteen dollars per month; one deputy who shall be the general clerk, at a salary of one hundred and fifteen dollars per month; one deputy who shall be the correspondence clerk, at a salary of one hundred and ten dollars per month; one deputy who shall be a license clerk, at a salary of one hundred dollars per month; and two deputies who shall be license inspectors, at a salary of ninety dollars each per month; five clerks, at a salary of ninety dollars each per month; one deputy who shall be book-keeper, at a salary of one hundred and ten dollars per month; one deputy who shall be sale and redemption clerk, at a salary of one hundred dollars per month; one stenographer, at a salary of seventy-five dollars per month; four clerks for a period not to exceed six months in any one year, at a salary of ninety dollars each per month; forty-five clerks for a period not to exceed four months in any one year, at a salary of ninety dollars each per month. There is also allowed not to exceed four hundred dollars for traveling expenses of said license tax collector each year. The salaries of the deputies, clerks and stenographers herein provided for shall be paid by said county in monthly instalments, at the same time, in the same manner, and out of the same fund as the salary of the tax collector.

7. The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney the following deputies and employees, who shall be appointed by the district attorney of said county, and who shall be paid salaries as follows: One assistant district attorney, at a salary of two hundred dollars per month; one chief deputy, at a salary of one hundred and seventy-five dollars per month; six deputies, at a salary of one hundred and fifty dollars each per month; two stenographers, at a salary of one hundred dollars each per month; one detective, at a salary of one hundred dollars per month, who shall assist the district attorney in the detection of crime and the prose-

cution of criminal cases; provided further, that nothing herein contained shall be construed to prevent the board of supervisors of said counties of this class from employing special counsel when, in the judgment of said board, the interests of said counties require it. The salaries of the assistants, deputies, stenographers, special counsel and detective herein provided for shall be paid by the county in monthly instalments, at the same time, in the same manner, and out of the same fund as the salary of the district attorney.

8. The assessor, three thousand six hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and hereby is allowed to the assessor the following deputies, clerks, stenographer and copyists, who shall be appointed by the assessor, and who shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; two deputies, at a salary of one hundred and fifteen dollars each per month; seven deputies, at a salary of ninety dollars each per month; thirty field deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; thirty field deputies for not exceeding two months in any one year, at a salary of one hundred dollars each per month; eight field deputies for not exceeding four months in any one year, at a salary of one hundred dollars each per month; ten field deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; nine deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; five copyists for not exceeding four months in any one year, at a salary of seventy-five dollars each per month; twenty-five copyists for not exceeding three months in any one year, at a salary of seventy-five dollars each per month; eight copyists for not exceeding seven months in any one year, at a salary of seventy-five dollars each per month; six deputies who shall be comparers for not to exceed two months in any one year, at a salary of ninety dollars each per month; two deputies who shall be photographers for not to exceed eight months in any one year, at a salary of one hundred dollars each per month; one stenographer, at a salary of seventy-five dollars per month; there is also allowed not to exceed five hundred dollars for traveling expenses of the said assessor or his deputies each year. The salaries of the deputies, stenographer, clerks and copyists herein provided for shall be paid by said county in monthly instalments, at the same time, in the same manner, and out of the same fund as the salary of the county assessor is paid. It is further provided, that in counties of this class, the assessor shall receive no commission for his collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll-taxes or road poll-taxes, nor shall the said assessor receive any compensation for making out the military roll of persons returned to him as subject to military duty, as provided by section nineteen hundred and one of the Political Code; provided, however, that fifteen per centum of all moneys collected by him for poll-taxes and road poll-taxes shall be allowed to such counties on their settlement with the state, and be and remain the property of such counties.

9. The coroner, three thousand dollars per year, and his actual necessary expenses in traveling outside of the county seat. He must hold inquests as

prescribed by chapter two, title twelve, part two of the Penal Code, except that he may, in his discretion, dispense with a jury. The coroner or other officer holding an inquest upon the body of a deceased person may subpoena a physician or surgeon to inspect the body, or chemist to make an analysis of the contents of the stomach or tissues of the body, or hold a post-mortem examination of the deceased, and give his professional opinion as to the cause of death. The coroner, in counties of this class, shall be and is hereby allowed the following assistants: One stenographer, at a salary of two hundred dollars per month, who shall, when directed by the coroner, take down in shorthand the testimony of witnesses at inquests, and under the direction of the coroner transcribe the same into longhand, and file a certified copy thereof with the county clerk, and the coroner may also appoint such stenographer as his deputy; one clerk, at a salary of one hundred dollars per month, who shall also act as messenger, and perform such other duties as the coroner may direct. The salaries of the stenographer and clerk herein provided shall be paid by the county in the same manner, at the same time, and out of the same fund as the salary of the coroner.

10. The public administrator, three thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the public administrator one clerk, at a salary of one hundred dollars per month, and the salary of said clerk shall be paid by the county in the same manner, at the same time, and out of the same fund as the salary of the public administrator.

11. The superintendent of schools, three thousand dollars per annum, which shall be in full for all services, including attendance upon the board of education, and actual necessary traveling expenses not to exceed five dollars for every school district in the county; provided, that in counties of this class, there shall be and there hereby is allowed to the superintendent of schools, the following assistants and deputies who shall be appointed by the superintendent of schools of said county, and who shall be paid salaries as follows: One assistant who shall be chief deputy, at a salary of one hundred and fifty dollars per month; one deputy at a salary of one hundred and fifteen dollars per month; one deputy, at a salary of one hundred dollars per month; and one deputy at a salary of ninety dollars per month. The salaries of the assistants and deputies herein provided for shall be paid by the county at the same time, in the same manner, and out of the same fund as the salary of the superintendent of schools.

12. The health officer, one thousand two hundred dollars per annum, and special health officers, when appointed as in this act provided, ten dollars each per day; provided, that not more than five hundred dollars per annum shall be paid or expended in any one year in payment of special health officers. The salary of the health officer and special health officers shall be paid by the county in the same manner, and at the same time, as the salaries of other county officers are paid.

12½. Each member of the county board of education, except the secretary thereof, five dollars for each session of the board attended, not exceeding a total of four hundred dollars to any member in one year. In addition, each member shall be entitled to mileage at the rate of ten cents per mile, for one

way only, while attending the regular sessions. Said compensation of the members of the board of education shall be payable monthly and out of the same funds, and in the same manner as the salary of the county superintendent of schools is paid. Said compensation shall be in full payment for all services rendered.

13. The surveyor, three thousand six hundred dollars per annum, and in addition thereto all necessary expenses and transportation for work performed in the field; provided, that in counties of this class, there shall be and there hereby is allowed to the surveyor one chief deputy, and ten deputies who shall be draftsmen, and who shall be appointed by the surveyor of said county and shall be paid salaries as follows: One chief deputy, at a salary of one hundred and seventy-five dollars per month; five draftsmen, at a salary of one hundred and twenty-five dollars each per month; four draftsmen, at a salary of one hundred dollars each per month; one draftsman, at a salary of eighty dollars per month. The salaries of said surveyor and said deputies and draftsmen herein provided for shall be paid by said county in monthly instalments at the same time, and in the same manner as the deputies of other county officers are paid.

14. Supervisors, one thousand eight hundred dollars per annum, together with mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties, either as road commissioners or supervisors, not exceeding in the aggregate, seven hundred and fifty dollars each per annum. They shall also receive their necessary expenses when attending meetings of the state board of equalization; and provided further, that there shall be and hereby is allowed to the board of supervisors the following clerks: One clerk, at a salary of ninety dollars per month; one clerk, at a salary of one hundred and ten dollars per month; one clerk, at a salary of one hundred dollars per month; one clerk who shall be superintendent of charities, at a salary of one hundred dollars per month; two clerks who shall be assistants to the superintendent of charities, at a salary of seventy-five dollars each per month; fourteen clerks for not exceeding thirty days in any one year, at a salary of four dollars each per day, to assist said board while sitting as a board of equalization; and in addition to the clerks hereinbefore provided for, in years when the general election is held within the state, there shall be and hereby is allowed to said board of supervisors fifteen clerks for not to exceed fifteen days in such years, at a compensation of four dollars each per day. Such clerks shall be appointed by the board of supervisors and shall be paid by said county in the same manner, at the same time and out of the same fund as other clerks of the county officers are paid; and still further provided, that from and after the first Monday after the first day of January in the year one thousand nine hundred and nine, supervisors in counties now of this class shall receive as compensation for the services required of them by law, a salary of two thousand four hundred dollars each per annum, together with mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties, either as road commissioners or supervisors, not exceeding in the aggregate seven hundred and fifty dollars each per annum, and they shall also receive their necessary expenses when attending meetings of the state board of equalization.

15. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that no justice of the peace shall receive more than one thousand five hundred dollars per annum, which may be paid in monthly instalments of not exceeding one hundred and twenty-five dollars per month, for all services rendered by him in criminal cases, or in actions or proceedings to which the people of the state of California are or may be parties; and no claim of any such justice of the peace in excess of said sum of one thousand five hundred dollars per annum, or the instalments thereof as aforesaid, shall be allowed or paid; but all fines and fees collected by every such justice on the account aforesaid shall belong to and be the property of the county in which such justice exercises his jurisdiction. And each of such justices shall report, under oath, on the first Monday of each month, to the board of supervisors of such county, the amount of all fines and fees collected by him, on the account aforesaid, during the preceding month, and shall, on said date, deposit with the county treasurer, to the credit of the county, all such fines and fees as may be shown by said report to have been collected by him. He shall also transmit the treasurer's receipt for said payment to said board, with the said report; provided further, that the boards of supervisors of such counties may, in townships having a population of more than thirty-five thousand, provide such justices, or any of them, with an office and the necessary furniture and supplies for the justice's court; and provided further, that the boards of supervisors in said counties and in townships having more than thirty-five thousand inhabitants, shall, upon the recommendation of the township justice or justices, appoint a clerk for each of the justice's court, which clerks shall each hold office for the term of two years from and after appointment, and shall receive a salary of one hundred dollars per month each, payable in like manner, at like times, and out of the same fund as county officers are paid by the county; said clerks shall each take and file an oath of office in like manner as county officers, and after being appointed and qualifying as hereinbefore prescribed, shall have power to administer and certify oaths to affidavits, and all papers, documents, or instruments used in or in connection with the actions and proceedings of such justice's court. Such clerks shall perform such other clerical service as may be required of them by the justice or justices.

16. Constables, such fees as are now or may hereafter be allowed by law; provided, that no constable shall receive more than one thousand two hundred dollars per annum, which may be paid in monthly instalments of not exceeding one hundred dollars per month, for all services rendered by him in all criminal cases or in actions or proceedings to which the people of the state of California are, or may be, made parties; and all fees collected by such constable on account of services rendered in criminal cases or proceedings, to which the people of the state of California are parties, shall belong to and be the property of the county in which said constable has been elected or appointed; provided further, that the constable shall be allowed the actual fare and expenses incurred in transporting prisoners to the county jail; and provided further, that in counties of this class and in townships having more than thirty-five thousand inhabitants, there shall be, and there is hereby allowed to such constable, one deputy who shall be appointed by the constable, and shall receive a salary of seventy-five dollars per month, payable in like manner and at like times, and out of the same

fund as the county officers are paid by the county; said deputy shall take and file an oath of office in like manner as county officers. Each constable shall report under oath on the first Monday of each month to the board of supervisors of such county, the amount of all fees collected by him for all services rendered in all criminal cases, or in actions or proceedings to which the people of the state of California are, or may be, made parties, during the preceding month, and shall, on said date, deposit with the county treasurer to the credit of the county all such fees as may be shown by said report to have been collected by him on account of the aforesaid. He shall also transmit the treasurer's receipt for said payment to said board with said report. [Amendment, Stats. 1905, 511.]

§ 160. In counties of the third class the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries:

1. The county clerk, four thousand (\$4,000.00) dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one chief deputy, whose salary is hereby fixed at the sum of eighteen hundred (\$1800.00) dollars per annum; five court-room deputies whose salaries are hereby fixed at the sum of fifteen hundred (\$1500.00) dollars per annum each; one deputy, whose salary is hereby fixed at the sum of fifteen hundred (\$1500.00) dollars per annum; four deputies, whose salaries are hereby fixed at the sum of twelve hundred (\$1200.) dollars per annum each; and one copyist, whose salary is hereby fixed at the sum of twelve hundred (\$1200) dollars per annum; the chief deputy, ten deputies, and one copyist herein provided for shall be appointed by the clerk of said county, and their salaries shall be paid by said county in equal monthly instalments at the same time and in the same manner and out of the same fund as is the salary of county clerk; provided further, that in such years as the compilation of a great register of voters is required by law to be made, the county clerk, in counties of this class, shall be and he is hereby allowed the following additional help: One clerk for a period of and not exceeding six months, whose salary is hereby fixed at one hundred and twenty-five (\$125.00) dollars per month; four clerks, for a period of and not exceeding four months, whose salaries are hereby fixed at one hundred (\$100.00) dollars each per month. Such clerks shall be appointed by the county clerk of such counties and during their respective periods of employment their salaries shall be paid by such county in equal monthly instalments at the same time and in the same manner and out of the same fund as is the salary of the county clerk of such counties.

2. The sheriff, four thousand (\$4,000) dollars per annum; provided, that there shall be and hereby is allowed to the sheriff one under-sheriff, whose salary is hereby fixed at the sum of two thousand four hundred (\$2,400) dollars per annum; one bookkeeper, whose salary is hereby fixed at the sum of eighteen hundred (\$1800) dollars per annum; one chief jailer, whose salary is hereby fixed at the sum of fifteen hundred (\$1500.) dollars per annum; two assistant jailers, whose salaries are hereby fixed at the sum of twelve hundred (\$1200.) dollars per annum each; five bailiffs, whose salaries are hereby fixed at the sum of twelve hundred (\$1200.) dollars per annum each; one office deputy, whose salary is hereby fixed at the sum of twelve hundred (\$1200.) dollars per annum; one matron for the jail, whose salary is hereby fixed at the sum of six hundred

(\\$600.) dollars per annum; and one stenographer, whose salary is hereby fixed at the sum of six hundred (\\$600.) dollars per annum; the under-sheriff, book-keeper, chief jailer, office deputies, assistant jailers, bailiffs, matron for jail, and stenographer, herein provided for shall be appointed by the sheriff; and their salaries shall be paid by said county in equal monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the sheriff; provided, that in counties of this class the sheriff shall be allowed no compensation or profit for feeding prisoners in the county jail, but that he shall file, monthly, with the county auditor, a verified statement, showing the names of persons and amounts paid to each for expense of feeding such prisoners, and the sheriff shall thereupon pay over to the county treasurer, for the use of the county, any difference between the amount allowed for such purpose by the supervisors and the amount actually expended by him therefor. The sheriff shall also receive the amount of money necessarily expended by him in serving all process and notices and all expenses necessarily incurred by him in the pursuit of criminals within his county, and the same shall be a charge against the county and allowed as such by the board of supervisors, and paid as other county charges are paid.

3. The recorder, four thousand (\\$4000) dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the recorder the following deputies and copyists, who shall be appointed by the recorder in such county, and shall be paid salaries and compensations as follows: One chief deputy, at a salary of eighteen hundred (\\$1800) dollars per annum; one index deputy, whose salary is hereby fixed at fifteen hundred (\\$1500) dollars per annum; three deputies, whose salaries are hereby fixed at twelve hundred (\\$1200) dollars per annum each; and one mortgage deputy, whose salary is hereby fixed at twelve hundred (\\$1200) dollars per annum; provided further, that the chief deputy, index deputy, three deputies, and one mortgage deputy herein provided for shall be appointed by the recorder of said county, and their salaries shall be paid by said county in equal monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the recorder; provided further, that in counties of this class the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office, not exceeding eight cents per folio for each paper or document so recorded; and provided further, that said recorder shall file monthly, with the county auditor, a verified statement, showing in detail the persons and the amounts paid to each for such recording.

4. The auditor, thirty-six hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the auditor one chief deputy, who shall be appointed by the auditor of said county, and whose salary is hereby fixed at the sum of eighteen hundred dollars per annum; one deputy, who shall be appointed by the auditor of such county, and whose salary is hereby fixed at the sum of twelve hundred dollars per annum; one clerk, whose salary is hereby fixed at the sum of twelve hundred dollars per annum, and such additional assistance as the auditor may appoint, and whose compensation shall not in the aggregate exceed the sum of one thousand dollars per annum; and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts paid, and the persons to whom said compensation

is paid, for such extra assistance as aforesaid. The salaries herein provided for shall be paid by the said county in equal monthly instalments, at the same time and in the same manner, and out of the same fund as the salary of the auditor.

5. The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the treasurer one chief deputy, whose salary is hereby fixed at the sum of eighteen hundred dollars per annum, and one deputy, whose salary is hereby fixed at the sum of twelve hundred dollars per annum, which sum shall be paid by said county in equal monthly instalments, at the same time, and in the same manner, and out of the same fund as the salary of the treasurer; provided, that the chief deputy and the deputy herein provided for, shall be appointed by the treasurer of such county.

6. The tax collector, three thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector one chief deputy, whose salary is hereby fixed at the sum of eighteen hundred dollars per annum, three deputies, whose salaries are hereby fixed at the sum of twelve hundred dollars each per annum, and one stenographer whose salary is hereby fixed at the sum of six hundred (\$600) dollars per annum; provided further, that there shall be and there hereby is allowed to the tax collector not to exceed two extra deputy [deputies] for the month of April of each year, whose salaries shall be one hundred dollars for such month, and three extra deputies for the month of July of each year, whose salaries shall be one hundred dollars each for such month, and five extra deputies for the month of August of each year, whose salaries shall be one hundred dollars each for such month, and six extra deputies for the month of September of each year, whose salaries shall be one hundred dollars each for such month, and seven extra deputies for the month of October of each year, whose salaries shall be one hundred dollars each for such month, and not to exceed twelve extra deputies for the month of November of each year, whose salaries shall be one hundred dollars each for such month; provided further, that the chief deputy, the stenographer, and all other deputies herein provided for, shall be appointed by the tax collector of said county, and the salaries of said chief deputy and all other deputies herein provided for shall be paid by said county, during the time which they shall hold office, as herein provided, at the same time and in the same manner and out of the same fund as the salary of the tax collector.

7. The license collector shall receive fifteen per centum of all licenses collected by him.

8. The assessor, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the assessor the following deputies, who shall be appointed by the assessor and shall be paid salaries as follows: One chief deputy assessor, at twenty-four hundred dollars per annum; one deputy assessor, at fifteen hundred dollars per annum; one mortgage deputy assessor, at twelve hundred dollars per annum; one transfer deputy assessor, at twelve hundred dollars per annum; seven outside field deputy assessors, at one hundred and twenty-five dollars each per month not exceeding six months in any one year; one stenographer, at six hundred dollars per annum; six field deputy assessors, for not exceeding four months in any one year, at one hundred dollars each per month; one cashier, for not exceeding seven months

in any one year, at a salary of one hundred and twenty-five dollars per month; eight copyists, for not exceeding four months in any one year, at a salary of one hundred dollars each per month; five extra deputy assessors, for not exceeding four months in any one year, at a salary of one hundred dollars each per month, and such additional assistance as the assessor may appoint and whose compensation shall not in the aggregate exceed the sum of forty-five hundred dollars per annum; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts paid and the persons to whom such compensation is paid for such extra assistance, as aforesaid. The salaries herein provided for shall be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid; it is hereby further provided, that in counties of this class the assessor shall receive commissions for his collections of taxes on personal property, and such assessor shall receive compensation or commission for the collection of poll-taxes, or road poll-taxes, but the said assessor shall not receive compensation for making out the military roll of persons returned by him as subject to military duty as provided by section nineteen hundred and one of the Political Code; provided, however, that should the assessor be directed by any law, or by any order of the board of supervisors, or by any municipality within said counties of the third class, to prepare maps, plats or block-books for the use of the county, or assessment rolls for the use of any municipality, then said assessor shall make such maps, plats or block-books, or assessment rolls, but shall only receive the actual cost by him incurred in making or preparing such maps, plats or block-books or assessment rolls; and provided further, that, he shall file with the county auditor a sworn statement showing the persons to whom, and the amounts paid to each, for such maps, plats or block-books, or assessment rolls, and he shall account forthwith and pay over to the county any difference between such cost and the amount allowed him for such work.

9. The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney one chief deputy district attorney, whose salary is hereby fixed at two thousand dollars per annum; three deputy district attorneys, whose salaries are hereby fixed at fifteen hundred dollars per annum each; and one clerk, whose salary is hereby fixed at the sum of twelve hundred dollars per annum; provided further, that the chief deputy district attorney, and three deputy district attorneys, and clerk shall be appointed by the district attorney and their salaries shall be paid by said county in equal monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the district attorney; provided further, that in counties of this class there shall be and there hereby is allowed to the district attorney a stenographer whose salary is hereby fixed at the sum of nine hundred dollars per annum; and for the purpose of assisting the district attorney in the detection of crime and the prosecution of criminal cases and in civil actions and proceedings and all matters in which the county is interested, there is allowed to the district attorney a detective, whose salary is hereby fixed at the sum of fifteen hundred dollars per annum; provided further, that the stenographer and detective shall be appointed by the district attorney, and their salaries shall be paid by said county in equal monthly

instalments, at the same time and in the same manner, and out of the same fund as the salary of the district attorney; provided further, that the provisions of this subdivision of this section of this act with reference to the stenographer shall be in force and effect on and after twelve o'clock meridian of the first Monday in January, nineteen hundred and seven; provided further, that the provisions of this subdivision of this section of this act with reference to the detective shall be in force and effect from and after its passage.

10. The coroner, such fees as are now or may hereafter be allowed by law; provided, that the coroner shall be paid by such counties in the same manner and out of the same fund as such fees are now paid, the sum of two dollars for each certificate of the cause of death made by him.

11. The public administrator, such fees as are now or may hereafter be allowed by law.

12. The county superintendent of schools, three thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the county superintendent of schools, one assistant superintendent of schools, and one deputy, who shall be appointed by the county superintendent of schools of said county and whose salaries shall be as follows: The salary of the assistant shall be one hundred dollars per month, that of the deputy shall be one hundred dollars per month. The salaries shall be paid out of the same fund and in the same manner as the salary of the county superintendent of schools is paid.

13. The surveyor shall receive ten dollars per day for all work performed for the county, and in addition thereto all necessary expenses and transportation for work performed in the field; provided, that whenever the surveyor is directed or charged to make, plat, trace, or otherwise prepare maps, plats, or block-books for the use of the county, city and county, or any municipality within such county, then such county surveyor shall only be allowed, in addition to the actual cost and expense of making, platting, tracing, or otherwise preparing such maps, plats, or block-books, a compensation to be determined by the board of supervisors, not exceeding the sum of ten dollars per day while he is actually so employed; and provided further, that such county surveyor shall file with the county auditor a sworn statement, showing in detail the amounts so paid, and the persons to whom such amounts have been so paid for such expense as aforesaid.

14. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as other county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nineteen thousand, two hundred and twenty-five dollars; in townships having a population of fifteen thousand and less than nineteen thousand, one hundred and fifteen dollars; in townships having a population of one thousand and less than fifteen thousand, seventy-five dollars. In addition to the compensation received in criminal cases each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions; provided, that in townships containing a population of more than twenty-five thousand there shall be but one justice in and for such townships. Each justice of the peace must

keep a book, open for the inspection of the public, during office hours, in which must be entered at once and in detail the amount of all fines collected by him in criminal cases, and on the first Monday of each and every month he must pay such fines so collected into the county treasury, or city treasury, as provided by law.

15. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as other county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than twenty-five thousand, one hundred and fifty dollars; in townships having a population of more than nineteen thousand and less than twenty-five thousand, ninety dollars; in townships having a population of fifteen thousand and less than nineteen thousand, eighty dollars; in townships having a population of one thousand and less than fifteen thousand, eighty-five dollars; provided, that in townships having a population of fifteen thousand and less than nineteen thousand there shall be but one constable. In addition to the compensation received in criminal cases each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil cases; provided, that in counties of this class constables shall be and they are hereby allowed such expenses as are actually and necessarily incurred by them in conveying prisoners to and from the county jail; such expenses to be itemized and presented as a claim against the county and to be audited and allowed by the board of supervisors and paid out of the county treasury in the manner as are other claims.

16. Each supervisor, one hundred and twenty-five dollars per month, and mileage at ten cents per mile for each mile actually traveled in going to and from their residence to the county seat, or in the performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month, and that the total mileage allowed shall not exceed one hundred dollars in any one month. [Amendment, Stats. 1905, 746.]

§ 161. In counties of the fourth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries to wit:

1. The county clerk, nine thousand dollars per annum.

2. The sheriff, nine thousand five hundred and twenty dollars per annum; provided, that he shall receive as additional compensation the mileage collected by him in criminal cases and all expenses incurred in criminal cases, and also his mileage for service of papers or process issued by any court of this state, and all fees for service of papers or process in actions arising outside of his county, and the said sheriff may appoint a matron for the county jail of his county which office of matron for the county jail is hereby created, and who shall receive as compensation the sum of seventy-five dollars per month, payable at the same time, and in the same manner as the salaries of other county officers.

3. The recorder, eight thousand dollars per annum; and the said recorder may appoint one chief deputy, which said office of chief deputy recorder is hereby created, who shall hold said office of chief deputy recorder for a period

of four years from and after his appointment, and who shall receive as compensation the sum of twelve hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers.

4. The auditor, four thousand dollars per annum.

5. The treasurer, four thousand dollars per annum.

6. The tax collector, seven thousand dollars per annum.

7. The license collector, who shall be appointed by the board of supervisors, whose term of office shall be for the period of four years, five per centum upon the whole amount of licenses collected by him.

8. The assessor, eight thousand seven hundred dollars per annum, and the said assessor may appoint one chief deputy assessor, and one draftsman for the assessor, which said officers of chief deputy assessor and draftsman for the assessor are hereby created, who shall hold said offices of chief deputy assessor and draftsman for the assessor, respectively, for the period of four years from and after their several appointments, and who shall receive as compensation the sum of twelve hundred dollars each, per annum, payable at the same time and in the same manner as the salaries of other county officers. And the assessor may also appoint each year two temporary deputies, who shall serve as such during the months of March, April, May, and June, of the year for which they are appointed, which said offices of temporary deputy assessors are hereby created, who shall receive as compensation the sum of eighty dollars each, per month, during the four months which they shall serve as such deputies, payable at the same time and in the same manner as the salaries of other county officers.

9. The district attorney, three thousand two hundred dollars per annum; and the said district attorney may appoint one assistant district attorney and one deputy district attorney, which said offices of assistant district attorney and deputy district attorney are hereby created. The salary of such assistant district attorney is hereby fixed at eighteen hundred dollars per annum, and the salary of such deputy district attorney is hereby fixed at twelve hundred dollars per annum, such salaries to be paid at the same time and in the same manner as the salaries of other county officers.

10. The coroner, such fees as are now or may hereafter be allowed by law.

11. The public administrator, such fees as are now or may hereafter be allowed by law.

12. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county; and the said superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of nine hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers.

13. The county surveyor, the sum of two thousand four hundred dollars per annum; and said surveyor may appoint one assistant surveyor, which said office of assistant surveyor is hereby created, who shall receive as compensation the sum of twelve hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers. All fees now, or which may hereafter be, allowed by law, and which shall be earned by the county surveyor in the official discharge of his duties, shall be paid into the

county treasury for the benefit of the county, accompanied with a sworn and itemized statement of such fees earned, on or before the first Monday of each month.

14. In counties of this class, justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable monthly, in the same manner as the salaries of county officers are paid, viz.: In townships having a population of twenty thousand or more, one hundred and fifty dollars per month; in townships having a population of four thousand and less than twenty thousand, one hundred and thirty-five dollars per month; in townships having a population of fifteen hundred and less than four thousand, sixty-five dollars per month; in townships having a population of one thousand and less than fifteen hundred, fifty dollars per month; in all townships having a population less than one thousand, thirty dollars per month; provided, that in townships having a population of twenty thousand or more, there shall be two justices of the peace in and for any such townships, and such justices shall be allowed a clerk, to be appointed by the board of supervisors at a salary of seventy-five dollars per month, payable monthly in the same manner as salaries of county officers are paid, and shall be furnished with offices and necessary supplies by the board of supervisors. All fees collected by justices of the peace in criminal cases, shall be by them monthly paid into the county treasury, accompanied by a sworn and itemized statement showing the amount of such fees, and all fees for civil cases collected by justices of townships with a less population than five thousand inhabitants, shall likewise be paid into the county treasury.

15. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly, in the same manner as salaries of county officers are paid, viz.: In townships having a population of twenty thousand or more, one hundred dollars per month; in townships having a population of four thousand and less than twenty thousand, seventy-five dollars per month; in townships having a population of fifteen hundred and less than four thousand, sixty dollars per month; in townships having a population of less than fifteen hundred, forty dollars per month. They shall be allowed all necessary expenses incurred in conveying prisoners, and such fees as are now or may be hereafter allowed in civil cases excepting constables in townships having a population of less than five thousand inhabitants who shall not receive any fees.

16. Each supervisor, one thousand two hundred dollars per annum, and mileage at ten cents per mile for each mile actually traveled in going to and from their residence to the county seat, or in performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month, and that the total mileage allowed shall not exceed one hundred dollars in any one month; and in counties of this class the members of the board of supervisors shall be ex officio road commissioners, and as such road commissioner shall be paid the sum of five hundred dollars per annum each. [Amendment, Stats. 1903, 168.]

§ 162. In counties of the fifth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum. He shall appoint one chief deputy, at a salary of eighteen hundred dollars per annum; two additional deputies at a salary of twelve hundred dollars each per annum, and three court-room clerks at a salary of one thousand five hundred dollars each per annum, and a deputy or deputies not to exceed five for the purpose of registering electors, to be paid not to exceed four dollars per diem each, provided that said deputies so employed for registering electors shall not be employed except during a year when a general election is to be held throughout the state and then only between the first day of June and the fifteenth day of November of said year; and such deputies as may be needed for the purpose of registering electors in precincts outside of the corporate limits of the city of Sacramento in said county, who shall be paid fifteen cents per name for each person legally registered by them. The salaries and compensation of each of said deputies and clerks to be paid out of the county treasury in equal monthly instalments in the same manner and at the same time as other county officials are paid.

2. The sheriff shall receive three thousand six hundred dollars per annum salary. The sheriff shall also receive for his own use the fees for mileage which are now, or which may hereafter, be allowed by law, and the fees and commissions for the service of all papers whatsoever issued by any court of the state outside of this county, and shall also receive his necessary expenses in all criminal cases. The sheriff shall also be paid twelve and one half cents per meal each for all meals furnished prisoners confined in the county jail. The sheriff shall have one under-sheriff at a salary of one thousand five hundred dollars per annum, two jailers at a salary of twelve hundred dollars per annum each, and three court bailiffs, or deputies, at a salary of twelve hundred dollars per annum each. All deputies herein mentioned shall be appointed by the sheriff, and paid at the same time and manner that their principal is paid.

3. The recorder, three thousand dollars per annum. The recorder may appoint one chief deputy at a salary of fifteen hundred dollars per annum; one mortgage clerk, at a salary of twelve hundred dollars per annum; one index clerk, at a salary of twelve hundred dollars per annum. Said recorder may also appoint such copyists, not to exceed three, as may be required for the recording of all papers, notices or documents in his office, who shall receive as compensation for their services, the sum of twelve hundred dollars each per annum. The salaries and compensation of all deputies and copyists herein provided for, each of whom shall be a deputy county recorder, shall be paid by said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the county recorder is paid.

4. The auditor, three thousand dollars per annum; provided, that in counties of this class there shall be, and is, hereby allowed to the auditor one deputy, who shall be appointed by the auditor of said county and whose salary is hereby fixed at fifteen hundred dollars per annum, and such additional assistants as the auditor may require, and whose compensation shall not exceed the sum of five hundred dollars per annum, in the aggregate, for all assistants so employed, and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts paid and the persons to whom such compensation has been paid for such additional assistance as afore-

said. The salaries herein provided for shall be paid by the said county in equal monthly instalments, at the same time, and in the same manner, and out of the same fund as the salary of the auditor.

5. The treasurer, three thousand four hundred dollars per annum.

6. The tax collector, two thousand five hundred dollars per annum; provided, that he shall have such assistants as he may require, whose compensation, which shall be paid by the county, shall not exceed the sum of five hundred dollars per annum in the aggregate.

7. The license collector, one thousand eight hundred dollars per annum.

8. The assessor, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be, and there is, hereby allowed to the assessor, the following deputies, who shall be appointed by the assessor, and shall be paid salaries as follows: One chief deputy assessor, at eighteen hundred dollars per annum; one office deputy assessor, at fifteen hundred dollars per annum; one mortgage and transfer deputy assessor, at nine hundred dollars per annum; four field deputy assessors, for not exceeding four months in any one year, at a salary of one hundred and twenty-five dollars each per month; eight field deputy assessors for not exceeding four months in any one year, at a salary of one hundred dollars per month each; and such additional assistance as the assessor may require, and whose compensation shall not in the aggregate exceed the sum of six hundred dollars per annum; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts paid and the persons to whom such compensation is paid for such extra assistance, as aforesaid. The salaries of the chief deputy assessor, office deputy assessor, mortgage and transfer deputy assessor and field deputy assessors herein provided for shall be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. It is hereby further provided, that in counties of this class the assessor shall receive no commission for his collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll-taxes or road poll-taxes.

9. The district attorney, three thousand six hundred dollars per annum. In counties of this class, the district attorney may appoint an assistant district attorney, which office is hereby created, who shall receive as compensation for his services the sum of two thousand four hundred dollars per annum, to be paid out of the county treasury in equal monthly instalments in the same manner, and at the same time other county officials are paid. In counties of this class the district attorney may appoint a deputy district attorney, which office is hereby created, who shall receive as compensation for his services the sum of one thousand eight hundred dollars per annum, to be paid out of the county treasury in equal monthly instalments in the same manner, and at the same time other county officials are paid. In counties of this class, the district attorney may appoint a clerk for service in his office, which office of clerk to the district attorney is hereby created, and said clerk shall receive as compensation for his services the sum of one thousand two hundred dollars per annum, to be paid out of the county treasury in equal monthly instalments in the same manner and at the same time other county officials are paid.

10. The coroner, such fees as are now or may be hereafter allowed by law;

provided, the coroner, or other officer holding an inquest upon the body of a deceased person, may subpoena a chemist to make an analysis of the contents of the stomach or the tissues of the body, or a physician or surgeon to inspect the body, or hold a post-mortem examination of the deceased, and give a professional opinion as to the cause of death; and shall cause the testimony of all the witnesses at such inquest to be reduced to writing under his directions and may require one of the official reporters to act as clerk or stenographer for such purpose, and in case any of such reporters should refuse or be unable to attend, may employ a stenographer for that purpose at the same compensation allowed to stenographers of the superior court of the county, such amount to be deducted from the salary of the official reporter in default.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting schools of his county, not exceeding three hundred dollars per annum; and the said superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of one thousand two hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers are paid. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of the said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such service and mileage shall be presented to the board of supervisors and shall be allowed, at the rate above named, and in the manner as other claims against the county are allowed. The compensation of members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code.

13. The surveyor, two thousand four hundred dollars per annum, and in addition thereto all necessary expenses and transportation for work performed on the field; provided, that in counties of this class, whenever the board of supervisors shall order, or the assessor may require, assessor's map or block-books, then the surveyor shall receive, in addition to the salary hereinabove noted, the sum of nine hundred dollars for the preparation and completion of the said map or block-books.

14. Justices of the peace, such fees as are or may be hereafter allowed by law, except that the justices of the peace in townships containing twenty thousand or more inhabitants shall be allowed a salary of one hundred dollars per month each in lieu of all fees in criminal cases; provided, however, that justices of the peace in townships contiguous to municipalities containing twenty-five thousand or more inhabitants, or in which a state penal institution is located, shall be allowed a salary of seventy-five dollars per month each in lieu of all fees in criminal cases; the salary of the justices of the peace as

above provided, to be paid at the same time, and in the same manner as county officers are paid.

15. Constables, such fees as are now or may be hereafter allowed by law, except that the constables in townships containing twenty thousand or more inhabitants shall be allowed a salary of one hundred dollars per month each; in lieu of all fees in criminal cases; provided, however, that constables in townships contiguous to municipalities containing twenty-five thousand or more inhabitants, or in which a state penal institution is located, shall be allowed a salary of seventy-five dollars per month each, and fifteen cents per mile for every mile actually traveled in taking prisoners to the county jail, in lieu of all fees in criminal cases, provided however that constables in townships not contiguous to municipalities containing twenty-five thousand or more inhabitants and constables in townships in which a state penal institution is not located shall receive in addition to the fees now provided by law three dollars per diem for each day in actual attendance on the court in criminal cases and fifteen cents per mile for every mile actually traveled in taking prisoners to the county jail. The salary of the constables as above provided to be paid at the same time and in the same manner as county officers are paid.

16. Each supervisor, one hundred and twenty-five dollars per month, and ten cents per mile for traveling to and from the county seat; provided, mileage shall not be allowed oftener than once in each month.

17. From and after the first Monday in January, nineteen hundred and three, the offices of recorder and auditor shall be separate and shall not be consolidated by the board of supervisors.

18. For attending as a juror in the superior court, for each day's attendance, per day, three dollars. For each mile actually traveled in attending court as a juror, in going only, per mile, twenty-five cents. [Amendment, Stats. 1905, 477.]

§ 163. In counties of the sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, five thousand nine hundred dollars per annum; provided, that he shall appoint one chief deputy, at a salary of twelve hundred dollars per annum, two court-room deputies, at a salary of nine hundred dollars per annum each, and one deputy at a salary of nine hundred dollars per annum. The salaries of said four deputies shall be paid by said county clerk out of said five thousand nine hundred dollars compensation above named.

2. The sheriff, sixty-two hundred dollars per annum; provided, that he shall appoint one under-sheriff, at a salary of fifteen hundred dollars per annum, and three deputy sheriffs, at a salary of nine hundred dollars per annum each. The salary of said under-sheriff and deputies shall be paid by said sheriff out of said sixty-two hundred dollars compensation above named. The sheriff shall also receive, as compensation for traveling, to be computed in all cases from the court-house, to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule, order, subpoena, attachment on property, to levy an execution, post notice of sale, to sell property under execution or other order of sale, to execute an order for the delivery of personal property, writ of possession or restitution, to hold inquest or

trial of right of property, in executing writ of habeas corpus, or collecting taxes, twenty cents for each mile, one way only, to be computed over the nearest and most practicable route, between the court-house and the place of service; provided, that if any two or more papers be required to be served in the same suit, at the same time, and in the same direction, one mileage only shall be charged to the most distant points to complete such service, which distance shall, in all cases, be estimated by the nearest practicable route.

3. The recorder, five thousand six hundred dollars per annum; provided, that the recorder shall appoint four copyists at a salary of nine hundred dollars per annum, each; which salary of said four copyists shall be paid by said recorder out of said sum of five thousand six hundred dollars compensation above named; and provided, further, that said copyists being eligible, may be appointed deputies of said recorder without further compensation.

4. The auditor, two thousand four hundred dollars per annum; provided, that the expenses incurred in making extensions of assessment and tax rolls shall be paid out of said sum of two thousand four hundred dollars compensation above mentioned.

5. The treasurer, two thousand dollars per annum, and such fees as are now or may hereafter be allowed by law.

6. The tax collector, three thousand dollars per annum, and such fees as are now or may be hereafter allowed him by law for the collection of all county licenses; provided, that the tax collector shall appoint as many deputies as may be necessary, all of which deputies' salaries shall be paid out of the compensation above named.

7. The assessor, four thousand two hundred dollars per annum; provided that the assessor shall appoint one chief deputy, at a salary of twelve hundred dollars per annum, and as many deputy assessors as may be necessary, all of which deputies' salaries shall be paid by the said assessor out of said four thousand two hundred dollars compensation above mentioned.

8. The district attorney, two thousand four hundred dollars per annum, and one assistant district attorney, at a salary of fifteen hundred dollars per annum, to be paid at the same time and in the same manner as county officers are paid; said assistant district attorney allowed in lieu of the assistant district attorney allowed by virtue of subdivision thirty-six of section twenty-five of an act entitled "An act to establish a uniform system of county and township governments," approved March twenty-four, eighteen hundred and ninety-three.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, said superintendent of schools may appoint a deputy at a salary of nine hundred dollars per annum, payable at same time and in same manner as salaries of other county officers are paid.

12. The surveyor shall receive one thousand eight hundred dollars per annum for all work performed for the county, and in addition thereto all necessary and actual traveling expenses incurred in connection with field-work, and all fees allowed by law; provided, that out of the compensation hereinabove pro-

vided he shall pay the cost of plotting, tracing or otherwise preparing maps, plats or block-books, and shall procure the necessary data therefor, for use of the county assessor: provided further, that the fees for land surveys, except when done for the county, shall be ten dollars per day, or fraction thereof, and in addition thereto all necessary and actual traveling expenses. He shall appoint a deputy at a salary of nine hundred dollars per annum, payable at the same time and in the same manner as county officers are paid.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, for all services required of them by law, or by virtue of their office, except as road commissioners, shall be allowed six dollars per day, and thirty cents per mile in traveling from their place of residence to the court-house; provided, that only one mileage must be allowed at each term; and provided further, that no supervisor must be allowed more than one day's pay for any one day, by reason of his being on the committees appointed by the board of supervisors, or for any other cause; provided, that in no case shall the per diem of the supervisors, as supervisors, exceed eight hundred dollars each in one year. Each supervisor shall receive for his services as road commissioner, thirty cents per mile, one way, for all distances actually traveled by him in the performance of his duties; provided, that he shall not in any one year, receive more than four hundred dollars as such road commissioner. [Amendment, Stats. 1905, 504. In effect January 1, 1907.]

§ 164. In counties of the seventh class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk two thousand four hundred dollars (\$2400) per annum. He shall have one deputy at a salary of thirteen hundred eighty dollars (\$1380) per annum; one deputy at a salary of twelve hundred dollars (\$1200), and three deputies at salaries of ten hundred and twenty (\$1020) per annum each, and one at a salary of seven hundred and twenty dollars (\$720) per annum.

2. The sheriff fifty-four hundred dollars (\$5400) per annum and all fees for service of processes issued without his county. He shall have an under-sheriff whose annual salary shall be thirteen hundred eighty (\$1380), two deputies whose annual salaries shall be twelve hundred (\$1200) each, one deputy whose salary shall be eleven hundred and forty dollars per annum and three deputies whose annual salaries shall be ten hundred and twenty dollars (\$1020) each.

3. The recorder twenty-one hundred dollars (\$2100) per annum. He shall have one deputy whose annual salary shall be thirteen hundred eighty dollars (\$1380), and two deputies whose annual salaries shall be ten hundred and twenty dollars (\$1020) each, and one deputy for a period of four months at seventy-five dollars (\$75) per month, he shall have such copyists as are necessary to perform the duties of the office at a compensation not to exceed six cents per folio.

4. The auditor twenty-one hundred (\$2100) dollars per annum, and one

deputy at an annual salary of thirteen hundred eighty dollars (\$1380) and one clerk at an annual salary of ten hundred and twenty dollars (\$1020).

5. The treasurer twenty-five hundred dollars (\$2500) per annum. He shall have a deputy at a salary of thirteen hundred eighty dollars (\$1380) per annum.

6. The tax collector twenty-one hundred dollars (\$2100) per annum. He shall have one deputy who shall receive thirteen hundred eighty dollars (\$1380) per annum, and three deputies at an annual salary of ten hundred and twenty dollars (\$1020) each. No other fees or compensation other than the compensation provided for in this section shall be allowed the tax collector for the collection of license, and all license or other fees collected shall be paid into the county treasury monthly, rendering therewith a statement of the license or other fees collected. He shall be allowed actual traveling expenses in the collection of said license fees, the same to be audited by the board of supervisors and paid the same as other bills against the county are paid.

7. The assessor shall receive three thousand dollars (\$3000) per annum, for all services rendered as assessor. He shall have one deputy at an annual salary of thirteen hundred eighty dollars (\$1380) and ten deputies for three months whose per diem shall be four dollars (\$4) each when actually employed, and four deputies for four months whose per diem shall be four dollars (\$4.00) each when actually employed. He shall have four copyists for a period of four months each, at fifty dollars (\$50.00) per month each during such time. All sums collected by the assessor or his deputies either as personal property taxes, poll or road taxes, or the fees allowed by law for the making of the military roll shall be paid into the county treasury monthly as collected, with a statement of account of such collections.

8. The district attorney three thousand dollars (\$3000) per annum. He shall have one deputy at a salary of eighteen hundred dollars (\$1800) per annum, and one deputy at a salary of twelve hundred dollars (\$1200) per annum. He shall also have a stenographer at an annual salary of nine hundred dollars (\$900).

9. The coroner such fees as are now or may hereafter be allowed by law.

10. The public administrator such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools twenty-one hundred dollars (\$2100) per annum for all services rendered as such. He shall have one deputy at an annual salary of twelve hundred dollars (\$1200). The superintendent shall also be allowed actual traveling expenses when visiting the schools of his county.

12. The surveyor two thousand dollars (\$2000) per annum in full compensation for all services as county surveyor as road viewer and road inspector and his actual expenses when at work in the field. He shall have one deputy at an annual salary of nine hundred and sixty dollars (\$960).

13. (a) The registered population of the several judicial townships of this county is hereby determined to be the registered vote as shown by the great register of the county in the office of the county clerk. The salaries of the several township officers shall be determined by the registered voting popula-

tion as shown by said register at the general election of the preceding even numbered year, and are as follows, to wit:

Judicial Township No. 1.....	275 (Firebaugh)
Judicial Township No. 2.....	621 (Clovis)
Judicial Township No. 3.....	5618 (Fresno)
Judicial Township No. 4.....	822 (Fowler)
Judicial Township No. 5.....	827 (Selma)
Judicial Township No. 6.....	542 (Coalinga)
Judicial Township No. 7.....	953 (Sanger)
Judicial Township No. 8.....	512 (Reedley)
Judicial Township No. 9.....	283 (Kingsburg)
Judicial Township No. 10.....	466 (Letcher)
Judicial Township No. 11.....	67 (Lemoore)
Judicial Township No. 12.....	73 (Polasky)
Judicial Township No. 13.....	322 (Laton)

(b) For the purpose of regulating the compensation of justices of the peace and persons performing the duties of justice of the peace, and constables, townships of this class of counties are hereby classified according to the registered voting population as shown by the great register of the county.

Townships having a registered voting population of five thousand and more shall belong to and be known as townships of the first class; townships having a like population of one thousand and less than five thousand shall belong to and be known as townships of the second class; townships having a like population of eight hundred and less than one thousand shall belong to and be known as townships of the third class; townships having a like population of five hundred and less than eight hundred shall belong to and be known as townships of the fourth class; townships having a like population of two hundred and fifty and less than five hundred shall belong to and known as townships of the fifth class; townships having a like population of two hundred and fifty and less shall belong to and be known as townships of the sixth class.

(c) Justices of the peace and persons performing duties of justices of the peace shall receive the following monthly salaries to be paid each month as the county officers are paid, and the same shall be in full compensation for all services rendered in criminal cases, and shall include their office rent, to wit:

In townships of the first class one hundred and seventy-five dollars.

In townships of the second class one hundred dollars.

In townships of the third class eighty dollars.

In townships of the fourth class sixty dollars.

In townships of the fifth class forty dollars.

In townships of the sixth class twenty dollars.

In addition to the monthly salaries herein allowed each justice of the peace may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions. Each justice of the peace must pay into the county treasury once a month, all fines collected by him.

14. Constables shall receive the following monthly salaries, to be paid each

month as the county officers are paid, and shall be in full compensation for all services rendered by them in criminal cases, to wit:

In townships of the first class, one hundred dollars.

In townships of the second class, ninety dollars.

In townships of the third class, eighty dollars.

In townships of the fourth class, sixty dollars.

In townships of the fifth class, forty dollars.

In townships of the sixth class, twenty dollars.

In addition to the monthly salaries herein allowed each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions; and shall be also allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or prison, which expenses shall be audited by the board of supervisors and paid out of the county treasury; provided further that when any constable is required to go out of his own county to serve a warrant of arrest, or any other paper in a criminal case, he shall be allowed mileage in going and returning outside of his own county at the rate of five cents per mile.

15. The supervisors shall receive each the sum of fifteen hundred dollars per annum, paid monthly in instalments of one hundred and twenty-five dollars per month, in full compensation for all services rendered either as supervisors or road overseers.

16. Jurors' fees in criminal cases, shall be as follows: For attending as a grand juror or a trial juror in the superior court, in criminal cases only, for each day's attendance, per day three dollars, for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, fifteen cents and the county clerk shall certify to the auditor the number of days attendance and number of miles traveled by each juror, and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

17. The salaries of all county and township officers shall be payable in instalments monthly on the first day of each month. [Amendment, Stats. 1905, 435.]

§ 165. In counties of the eighth class, county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, three thousand dollars per annum; the sheriff shall also receive for his own use and benefit the fees for mileage which are now or which may hereafter be allowed by law, and the fees of [or] commissions for the service of all papers whatsoever issued by any court of the state outside of his county; and shall also receive his necessary expenses in all criminal cases.

3. The recorder, two thousand dollars per annum.

4. The auditor, one thousand dollars per annum.

5. The treasurer, two thousand dollars per annum, and such commissions as are now or may hereafter be allowed by law.

6. The tax collector, one thousand dollars per annum, and ten per centum on all licenses collected, which shall be in full for all services as tax collector and license collector.

7. The assessor, eleven thousand five hundred dollars per annum; the assessor shall turn over to the county all fees and commissions for the collection of poll-tax, personal-property tax and for making up the military roll. The assessor shall make all maps and plats and shall bind in book form, alphabetically arranged, all assessment lists; provided there shall be no charge against the county for the making of said maps, plats, and said binding, except for the material furnished in the making of said maps and plats and binding of said assessment lists.

8. The district attorney, three thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, twenty-four hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, said expenses not to exceed six hundred dollars in one year.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable in the same manner as county officers are paid, viz.:

In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, fifteen dollars per month; justices of the peace in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law in civil cases.

14. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of fourteen thousand or more, eighty-five dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, fifteen dollars per month; constables in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law for mileage in criminal cases and shall also receive such fees as are now or may hereafter be allowed by law in civil cases.

15. Each member of the board of supervisors, nine hundred dollars per annum, and their necessary expenses when attending to the business of the

county, other than the meetings of the board; and fifteen cents a mile in traveling to and from his residence to the county seat; provided, that not more than one mileage at any one term of the board shall be allowed.

16. The bonds of the clerk, sheriff, recorder, auditor, treasurer, tax collector, assessor, distriet attorney, coroner, public administrator, superintendent of schools and surveyor, shall be executed with a reliable bond and security company and that the cost of said bond, when duly approved shall be a charge against the county, and payable out of the general fund.

17. The county clerk shall have one chief deputy, at a salary of fifteen hundred dollars per annum; two court-room deputies, at a salary of one thousand and eighty dollars per annum each, and a deputy or deputies not to exceed ten, for the purpose of registering electors and for other emergencies, to be paid not to exceed three dollars per diem each.

The county recorder, one deputy, at a salary of fifteen hundred dollars per annum, three deputies at a salary of one thousand and eighty dollars per annum each.

The treasurer, one deputy at a salary of two thousand dollars per annum; and a deputy for the purpose of collecting taxes and for other emergencies, to be paid not to exceed four dollars per diem.

The district attorney, an assistant distriet attorney, at a salary of eighteen hundred dollars per annum, and a deputy district attorney, at a salary of twelve hundred dollars per annum.

The superintendent of schools, one deputy, at a salary of nine hundred dollars per annum.

The sheriff, an under-sheriff, who shall receive a salary of eighteen hundred dollars per annum; a clerk, who shall receive a salary of one thousand and eighty dollars per annum; two deputy sheriffs, who shall receive a salary of one thousand and eighty dollars per annum each; two bailiffs or court-room deputies, who shall receive a salary of one thousand and eighty dollars per annum each; two jailers, who shall receive a salary of one thousand and eighty dollars per annum each; and a deputy or deputies not to exceed two, for the purpose of serving papers and for other emergencies to be paid not to exceed three and a half dollars per diem each. All the deputies, assistants, and clerks herein mentioned shall be paid at the time and in the manner that the principals are paid from and after the approval of this act. [Amendment, Stats. 1905, 507. **In effect** on and after January 1, 1907.]

§ 166. In counties of the ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, seven thousand six hundred dollars per annum.

2. The sheriff, seven thousand eight hundred dollars per annum; and the sheriff shall also receive for his own use and benefit the fees or commissions for the service of all papers whatsoever, issued by any court of the state outside of his county. And the board of supervisors shall allow the sheriff his actual and necessary expenses in serving any civil or criminal process, or performing any other official duty within his county at a distance, by the ordinary route of travel, of more than sixty miles from the county seat.

3. The recorder, the fees now allowed by law pertaining to said recorder's

office; provided, that the fee for filing, indexing, and canceling tax-sale certificates for land sold to the state for delinquent taxes shall be fifteen cents for each certificate, and for filing, recording, and indexing tax deeds to the state, the fee shall be seventy-five cents each, all of which shall be paid out of the county treasury in the same manner that other claims are paid; provided, that the fee to be charged by the recorder for filing certificates of tax sale issued by the tax collector of any municipality within any county of the ninth class shall be one dollar for each volume, when the same is bound in book form; each of said volumes shall contain not less than two hundred of such tax certificates; provided, that all books of record, printing, and stationery shall be furnished and paid for by the recorder out of his fees; the style and quality of the same to be approved by the board of supervisors.

4. The auditor, five thousand five hundred dollars per annum.

5. The treasurer, three thousand dollars per annum.

6. The tax collector, seven thousand dollars per annum, which shall include all fees and percentage as license collector.

7. The assessor, six thousand five hundred dollars per annum, and such fees as are allowed by law.

8. The district attorney, five thousand dollars per annum.

9. The superintendent of public schools, twenty-five hundred dollars per annum. He shall have one deputy at an annual salary of twelve hundred dollars.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The coroner, seventy-five dollars per month, and in addition thereto the board of supervisors shall allow the coroner his actual traveling expenses in the performance of his official duties within his county at a distance by the ordinary route of travel of more than sixty miles from the county seat.

12. The surveyor, three thousand dollars per annum, which shall be in lieu of all fees and per diem now allowed by law.

13. Constables, in civil cases such fees as are now or may hereafter be allowed by law; and in criminal cases in townships having a population of sixteen thousand or more in lieu of fees now allowed by law the sum of one hundred dollars per month; and in all townships having a population of less than sixteen thousand such fees as are now or may hereafter be allowed by law; provided, however, that no constable in such township shall be allowed in any one month out of the county treasury more than seventy-five dollars as fees in misdemeanor cases; provided further that in such townships they shall receive for each day's attendance in criminal cases when required by the justice to be present two dollars per day; provided further that in all townships the constables thereof for taking persons to the county jail actual traveling expenses only shall be allowed in lieu of mileage.

14. Justices of the peace, in all townships having a population of sixteen thousand or more one hundred and fifty dollars per month in full of all compensation in both civil and criminal cases; in townships having a population of less than sixteen thousand such fees as are now or may hereafter be allowed by law; provided however, that no justice of the peace in such township shall

be allowed in any one month out of the county treasury more than seventy-five dollars in misdemeanor cases.

The board of supervisors of such county shall furnish the township justice of the peace and the constables in townships having a population of sixteen thousand or more with suitable court-room and furniture for said justice of the peace, and an office with necessary and proper furniture therefor, for each of said constables.

15. Each member of the board of supervisors, five hundred dollars per annum, and fifteen cents per mile in going from his residence to the county seat at each meeting of the board. Also, four hundred dollars per annum each, and mileage now allowed by law, for services as road commissioners.

16. In counties of this class the official reporters of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and on all lunacy and preliminary examinations and coroner's inquests, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of the county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio per copy; said compensation for transcription in criminal cases and coroner's inquests to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

17. In counties of this class there shall be but one horticultural commissioner.

18. Each member of the board of education shall receive five dollars per day for not to exceed sixty days in any one year as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for not to exceed sixty days in any one year for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such services and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named and in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code. [Amendment, Stats. 1905, 400.]

§ 167. In counties of the tenth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, and shall have as assistants the respective employees hereafter named, to wit:

1. The county clerk, four thousand three hundred dollars per annum, and the sum of five hundred dollars for making the great register, and ten cents for each person registered, and there shall be, and there is hereby allowed to the county clerk in addition, one deputy, to be appointed by the county clerk, who shall be paid a salary of one thousand dollars per annum, the said salary

to be paid by such county in monthly instalments, at the time, and in the manner and out of the same fund as the salaries of county officers are paid.

2. The sheriff, five thousand three hundred dollars per annum, and all commissions, fees and mileage for the service of papers or process coming from courts other than those of his own county, and there shall be, and there is hereby created the office of jailer, to be appointed by the sheriff, who shall be paid a salary of one thousand two hundred dollars per annum, said salary to be paid by such county in monthly instalments, at the time and in the [manner] and out of the same fund as the salaries of county officers are paid.

3. The recorder, one thousand five hundred dollars per annum, and six cents per folio for recording, and four hundred and fifty dollars per year for abstract of mortgages for the county assessor.

4. The auditor two thousand four hundred dollars per annum, and there shall be, and there is allowed to the auditor in addition, one deputy, to be appointed by the auditor, who shall be paid a salary of one thousand dollars per annum, and there shall be, and there is allowed to the auditor in addition, three clerks to be appointed by the auditor, who shall be paid a salary of seventy-five dollars per month each, not to exceed one month in any one year; said salaries to be paid by such county in monthly instalments at the time and in the manner and out of the same fund as the salaries of county officers are paid.

5. The treasurer, two thousand four hundred dollars per annum.

6. The tax collector three thousand two hundred dollars per annum; and there shall be, and there is allowed to the tax collector in addition, one deputy, to be appointed by the tax collector, who shall be paid a salary of one thousand dollars per annum, said salary to be paid by such county in monthly instalments at the time and in the manner and out of the same fund as the salaries of county officers are paid; provided, however, that in counties of this class, the tax collector shall receive no fees or commissions for the collection of licenses.

7. The assessor, five thousand five hundred dollars per annum, and there shall be, and there is allowed to the assessor in addition, one deputy, to be appointed by the assessor, who shall be paid a salary of seventy-five dollars per month, not to exceed six months in any one year, said salary to be paid by such county in monthly instalments at the time and in the manner and out of the same fund as the salaries of county officers are paid; provided, however, that the percentage received by the assessor on poll-taxes and personal-property taxes, and also amounts allowed for returning names of persons subject to military duty, and which, in counties of other classes, is allowed to the assessor as compensation, shall be paid by him into the county treasury, and no part thereof shall be received by him as compensation.

8. The district attorney, three thousand dollars per annum, and there shall be, and there is allowed to the district attorney in addition, one deputy, to be appointed by the district attorney, who shall be an attorney at law regularly admitted to practice before the supreme court of the state of California, who shall be paid a salary of one thousand two hundred dollars per annum, said salary to be paid by such county in monthly instalments at the time and in the manner and out of the same fund as the salaries of county officers are paid.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools for full services including attendance on the county board of education, one thousand eight hundred dollars per annum, and actual traveling expenses, and there shall be, and there is allowed to the superintendent in addition, a deputy, who shall be appointed by the superintendent of schools, who shall be paid a salary of one thousand dollars per annum, said salary to be paid by such county in monthly instalments at the time and in the manner and out of the same fund as the salaries of county officers are paid. The office of the superintendent of schools shall be kept open on all business days from nine o'clock a. m. to five o'clock p. m.

12. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools is paid. Claims of such services and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named and in the same inanner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred and seventy of the Political Code.

13. The surveyor, one thousand five hundred dollars per annum, and in addition thereto all necessary expenses, incurred in performing county work, ordered by the board of supervisors.

14. The justices of the peace, the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of six thousand and over, ninety dollars per month.

In townships having a population of two thousand four hundred and less than six thousand, seventy-five dollars per month.

In townships having a population of one thousand five hundred and less than two thousand four hundred, sixty dollars per month.

In townships having a population of eight hundred and less than one thousand five hundred, fifty dollars per month.

In townships having a population of five hundred and less than eight hundred, twenty dollars per month.

In townships having a population less than five hundred, ten dollars per month.

In addition to the above salaries, each justice of the peace shall collect for his own use in civil cases such fees as are now or may hereafter be allowed by law. [Supersedes Stats. 1903, 217, ch. CXIV.]

15. Constables, the following monthly salaries, to be paid each month as the

salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of five thousand and more, eighty-five dollars per month; in townships having a population of two thousand five hundred and less than five thousand, sixty-five dollars per month; in townships having a population of fifteen hundred and less than two thousand five hundred, sixty dollars per month; in townships having a population of eight hundred and less than fifteen hundred, fifty dollars per month; in townships having a population of five hundred and less than eight hundred, twenty dollars per month; in townships having a population less than five hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

The population of townships shall, for the purpose of this section, be determined by the last preceding United States census, and in case townships are formed after the taking of the census, then the population shall be determined by multiplying the vote for governor cast in such township, at the last preceding election, by four.

16. The supervisors each the sum of one hundred and twenty-five dollars per month as supervisors and road commissioners, and actual traveling expenses not to exceed five hundred dollars in any one year; vouchers for said traveling expenses shall be filed with the proper officer.

17. The official reporter of each department of the superior court shall be and he is hereby constituted a county officer and shall receive, as full compensation for taking notes in civil and criminal cases tried in said courts, a salary of one thousand eight hundred dollars per annum, payable in equal monthly instalments, out of the county treasury, at the same time and in the same manner as the salaries of other county officers; he shall without further compensation act as the secretary of the judge of such department of the superior court; and for transcription of said notes, when required, they shall receive the sum of twenty cents per folio for the original and five cents per folio for a copy, and also actual traveling expenses, when reporting outside of the county seat. Said compensation for transcribing in criminal cases, preliminary examinations, and inquests, and traveling expenses, to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party or jointly by both parties as the court may direct. [Amendment, Stats. 1905, 424.]

§ 168. In counties of the eleventh class, the county and township officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand six hundred dollars per annum; and there shall be, and there hereby is allowed to the county clerk, two deputies who shall be appointed by the county clerk and shall each be paid a salary of twelve hundred dollars per annum.

2. The sheriff shall receive five thousand dollars per annum; and there shall be and there hereby is allowed to the sheriff, one deputy, who shall be ap-

pointed by the sheriff and shall be paid a salary of one thousand five hundred dollars per annum.

3. The recorder, two thousand five hundred dollars per annum, and there shall be and there is hereby allowed to the county recorder two deputies who shall be appointed by the recorder and shall be paid a salary of seven hundred and fifty dollars per annum each.

4. The auditor shall receive two thousand seven hundred dollars per annum.

5. The treasurer shall receive two thousand four hundred dollars per annum.

6. The tax collector shall receive two thousand eight hundred dollars per annum.

7. The license collector shall receive ten per centum of all licenses collected by him.

8. The assessor shall receive four thousand five hundred dollars per annum. He may employ such assistance as may be necessary in making maps, plats and drawings essential for use in the assessor's office in the performance of his duty and the expense thereof shall be a charge against the county.

9. The district attorney shall receive two thousand four hundred dollars per annum; and there is hereby allowed to the district attorney one deputy to be appointed by him who shall receive a salary of one thousand dollars per annum.

10. The coroner, shall receive such fees as are now, or may hereafter be allowed by law.

11. The public administrator shall receive such fees as are now, or may hereafter be allowed by law.

12. The superintendent of schools, two thousand dollars per annum; and there shall be and there is hereby allowed to the superintendent of schools, one deputy, who shall be appointed by the superintendent of schools, and shall be paid a salary of seven hundred and fifty dollars per annum.

13. The surveyor shall receive two thousand dollars per annum; and necessary traveling expenses while in the performance of the duties of his office.

14. Each supervisor nine hundred dollars per annum, and mileage at twenty cents per mile, for all distances traveled by him as supervisor or as road commissioner; such mileage not to exceed, in any one year, the sum of seven hundred and fifty dollars.

15. The official shorthand reporter shall receive two thousand dollars per annum for the department of the superior court to which he has been appointed. Whenever one reporter shall be appointed to, and shall perform the duties required of the official shorthand reporter, for more than one department of said superior court he shall receive a salary therefor of two thousand five hundred dollars per annum. In addition thereto, he shall receive for transcribing notes, the sum of ten cents per folio, for the original, and five cents per folio for all copies thereof. Subdivision fifteen hereof, relating to the salaries and fees of official shorthand reporters, shall take effect immediately.

16. In townships having a population of seven thousand or over, two justices of the peace shall be elected, and each shall receive a salary of fifty dollars per month. In townships having a population less than seven thousand and over four thousand there shall be but one justice of the peace elected and he shall receive a salary of thirty dollars per month. In all other townships there

shall be but one justice of the peace who shall receive a salary of twenty dollars per month. All justices in counties of this class shall, in addition to the salaries above provided for, receive and collect for their own use and benefit, in civil cases only, the following fees, to wit:

(1) Each justice of the peace shall be allowed, in civil actions for all services before trial or entry of judgment, by default or confession, two dollars and for all additional services in such action, including execution and satisfaction of judgment, two dollars.

(2) For the trial of civil actions and all proceedings subsequent thereto, three dollars.

(3) For certificate and transmitting papers and transcript on appeal, one dollar.

(4) For copies of papers on docket per folio, ten cents.

(5) For issuing a search warrant, the fee to be paid by the party demanding the same, one dollar.

(6) For celebrating a marriage, and returning a certificate thereof to the county recorder, five dollars.

(7) For taking an acknowledgment of an instrument, for the first name fifty cents, and for each additional name twenty-five cents.

(8) For administering an oath, and certifying the same, fifty cents.

(9) For issuing a commission to take testimony, one dollar.

(10) For all services connected with the posting of estrays, one dollar.

(11) For issuing each affidavit, certificate, process, writ, order, or paper required by law to be issued, not otherwise herein provided for, twenty-five cents.

[Note. Paragraph 12 seems to be omitted.]

(13) For taking bail in all proceedings, pending before another magistrate, fifty cents.

(14) In townships having a population of seven thousand or over two constables shall be elected and each shall receive a salary of forty dollars per month. In townships having a population less than seven and over four thousand, there shall be but one constable elected, and he shall receive a salary of twenty-five dollars per month. In all other townships there shall be but one constable who shall receive twenty dollars per month.

All constables in addition to the salaries above provided for, shall receive and collect, for their own use and benefit, in civil cases only, the following fees, to wit:

1. For serving summons and complaint, for each defendant served, fifty cents.

2. For each copy of summons made by him, twenty-five cents.

3. For levying writ of attachment or execution, or executing an order of arrest, in a civil case or for delivery of personal property, two dollars.

4. For serving a writ of attachment or execution on any ship, boat, or vessel, three dollars.

5. For keeping personal property, such sum as the court may order; but no more than two dollars fifty cents per day, for a keeper, when necessarily employed.

6. For taking a bond or undertaking, one dollar.

7. For copies of writs or other papers, except summonses, complaints, and subpœnas, per folio, fifteen cents; provided, that when correct copies are furnished him for use, no charges shall be made for such copies.

8. For serving any writ, notice or order, except summons, complaint, or subpœna, for each person served, fifty cents.

9. For writing and posting each notice of sale of property, fifty cents.

10. For furnishing notice of publication, twenty-five cents.

11. For serving subpœnas, each witness including copy, fifty cents.

12. For collecting money on execution two and one half per centum.

13. For executing and delivering certificate of sale, fifty cents.

14. For executing and delivering constable's deed, two dollars and fifty cents.

15. For each mile actually traveled within his county, in the service of any civil writ, order, or paper, in going only, per mile, twenty-five cents. No constructive mileage shall be allowed.

16. For each mile necessarily traveled within his county, in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents; and the actual cost of the transportation of the prisoner or prisoners from the place of arrest to the justice court, and the necessary expense of assistance; provided, that for traveling in performance of two or more official services at the same time, including the service of criminal process, but one mileage shall be charged.

17. For each mile necessarily traveled outside his county in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents.

18. For transporting prisoners to the county jail, from the justice's court or from the county jail to the justice's court, the actual cost of transportation and assistance, and mileage at twenty-five cents per mile, one way. In conveying two or more prisoners, but one mileage shall be charged.

19. For each day in which the constable is charged with the custody of a prisoner or prisoners, two dollars fifty cents, and for necessary expense of maintenance and assistance in keeping said prisoners.

20. For summoning a jury in a civil case, twenty-five cents for each of the persons so summoned, and mileage at the rate of twenty-five cents per mile, going only.

21. For attending court during the trial of a civil cause, per day, three dollars.

22. For making sales of estrays in civil cases, the same fees as for sales on execution.

23. For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupants therefrom three dollars per day, and mileage at twenty-five cents per mile, going only.

24. The mileage provided for herein shall be computed for the shortest practicable traveled route between the two points for which mileage is claimed.

17. All salaries provided for in this act shall be paid out of the treasury of the county in monthly instalments, and all fees shall be paid from the county

treasury as other bills against the county are paid. [Amendment, Stats. 1905, 524.]

§ 169. In counties of the twelfth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a great register of voters is ordered he shall receive five hundred dollars additional, which shall be in full for all services rendered in registering voters and making the great register.

2. The sheriff, four thousand five hundred dollars per annum, and the fees or commissions for the service of all papers whatsoever issued by any court outside of his county. He shall appoint a jailer to take charge of the branch county jail, at a salary of six hundred dollars per annum, to be paid by the county.

3. The recorder, twenty-two hundred and fifty dollars per annum.

4. The auditor, eighteen hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, (fifteen hundred) three thousand dollars per annum.

7. The assessor, three thousand dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, five hundred dollars per annum.

11. The superintendent of schools, fifteen hundred dollars per annum, and his actual traveling expenses while visiting schools.

12. The surveyor shall receive seven dollars per diem for each day actually employed in the performance of his duties as a county officer, and in addition thereto all necessary expenses, such as transportation and pay of help which may be necessary for the performance of county duties.

13. Justices of the peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases. In townships having a population of six thousand or more, one hundred dollars per month; in townships having a population of two thousand four hundred and less than six thousand, seventy-five dollars; in townships having a population of two thousand and less than two thousand four hundred, sixty-five dollars; in townships having a population of one thousand five hundred and less than two thousand, fifty-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of eight hundred and less than one thousand, twenty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population of less than five hundred, ten dollars. Each justice must pay into the county treasury once a month, all fines collected by him. In addition to the monthly salary allowed herein, each justice may receive for his own use such fees as now or hereafter may be allowed by law for all services performed by him in civil actions.

14. Constables, the following salaries which shall be paid monthly as salaries of county officers are paid, and which shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of two

thousand one hundred and more, one hundred dollars; in townships having a population of one thousand five hundred and less than two thousand five hundred, eighty dollars; in townships having a population of one thousand and less than one thousand five hundred, fifty dollars; in townships having a population of eight hundred and less than one thousand, thirty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population less than five hundred, ten dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or hereafter may be allowed by law for all services performed by him in civil actions. For the purposes of this act the basis of calculation for fixing the compensation of the justices and constables above mentioned, the population of the different townships of the county shall always be based upon the figures as shown by the last United States census; provided, however, that whenever the census of any township or townships shall have been taken under the provisions of this act, said census may become the basis of calculation.

15. Each member of the board of supervisors, six hundred dollars for all services rendered and including mileage; provided, that when required to go on business to any point outside of said county they shall be allowed actual necessary expenses.

16. The official court reporter for all services required of him in the superior court, excepting for transcribing his notes, a salary of one thousand five hundred dollars per annum, to be paid by the county monthly as the salaries of county officers are paid. For transcribing his notes of testimony in the superior court when required seven cents per folio for original and four cents per folio for copies to be paid for when completed by the party in a civil action who directs the work to be done, but the same shall ultimately be taxed as costs in the case. In criminal proceedings in the superior court when the judge orders the notes transcribed the same shall be paid from the county treasury on the order of the court. When the services of the reporter are demanded in any civil matter the clerk shall collect each day in advance two dollars and fifty cents from each side to the controversy, and pay the same into the county treasury. At the conclusion of the trial or proceeding, in civil matters, such reporter's fees shall be taxed as costs in the same manner that other costs are taxed in the case.

17. Members of the county board of education shall receive ten cents per mile for traveling from his or her residence to the county seat; provided, that mileage be not allowed for more than two meetings in any one month. [Amendment, Stats. 1905, 676.]

§ 170. In counties of the thirteenth class the county and township officers shall receive, as full compensation for the services required of them by law or by virtue of their offices, the following fees and salaries:

1. The county clerk, thirty-three hundred dollars per annum; provided, that in any year that the compilation of a great register is required by law to be made, he shall receive six hundred dollars additional for said year, which shall be in full for all services required in registering voters and making such new great register.

2. The sheriff, thirty-five hundred dollars per annum, and mileage for the

service of any and all processes required by law to be served by him, at the rate of five cents per mile for every mile necessarily traveled in the performance of his duty or in the serving of papers of any kind.

3. The recorder, twenty-one hundred dollars; provided however, that in counties of this class the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office not exceeding seven cents per folio for each paper or document so recorded; provided further, that said recorder shall file monthly, with the county auditor, a verified statement showing in detail the persons and the amounts paid to each for such recording.

4. The auditor, two thousand dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, twenty-four hundred dollars per annum, provided that said tax collector shall be allowed one clerk for the period of six months during each fiscal year who shall be appointed by said tax collector and be paid a salary of seventy-five dollars per month, the said salary to be paid by the said county in monthly instalments at the same time, and in the same manner, and out of the same fund, as the salary of the tax collector is paid.

7. The assessor, eighteen hundred dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Each supervisor. Each member of the board of supervisors, six hundred dollars per annum and actual mileage to and from the county seat while in the discharge of his official duties, and mileage as road commissioner, fifteen cents per mile, one way; provided the amount of mileage for each supervisor shall not exceed the sum of three hundred dollars in any one year.

14. For the purpose of regulating the compensation of justices of the peace and constables, judicial townships in this class of counties are hereby classified according to their population as follows:

Townships containing a population of six thousand five hundred or more shall belong to and be known as townships of the first class; townships containing a population of less than six thousand five hundred and more than four thousand five hundred shall belong to and be known as townships of the second class; townships containing a population of less than four thousand five hundred and more than two thousand five hundred shall belong to and be known as townships of the third class; townships containing a population of less than two thousand five hundred and more than one thousand, shall belong to and be known as townships of the fifth class; townships containing a population of less than one thousand and more than eight hundred shall belong to and be known as townships of the fifth class; townships containing a population of less than eight hundred shall belong to and be known as townships of the sixth class. The population of the several judicial townships shall

be determined for the purpose of this and the succeeding section, by multiplying by five the total vote cast in such townships for governor at the last general election held November fourth, nineteen hundred and two, as indicated by the official election returns of said election.

15. Justices of the peace shall receive the following fees and salaries, which shall be paid monthly in the same manner as the salaries of the county officers are paid, out of the general fund of the county, which shall be in full for all services rendered by them in criminal cases; provided, however, that if two justices of the peace shall be elected and qualify in any one township, then the said justices shall each receive one half of the salary therein provided for, to wit:

In townships of the first class, seventy-five dollars per month; in townships of the second class, fifty dollars per month; in townships of the third class, twenty-five dollars per month; in townships of the fourth class, fifteen dollars per month; in townships of the fifth class, five dollars per month; in townships of the sixth class, such fees as are now or may hereafter be allowed by law.

Each justice must pay into the county treasury once a month all fines collected by him. In addition to the monthly salaries herein allowed, each justice may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for services rendered by him in civil cases; justices of the peace of the first and second classes shall be allowed their actual office rent, not to exceed the sum of fifteen dollars each, for any one month.

Constables shall receive the following fees and salaries which shall be paid monthly in the same manner as the salaries of the county officers are paid out of the general fund of the county, and which shall be in full for all services rendered by them in criminal cases, to wit:

In townships of the first class, thirty dollars per month; in townships of the second class, thirty dollars per month; in townships of the third class, twenty dollars per month; in townships of the fourth class, fifteen dollars per month; in townships of the fifth class, five dollars per month; in townships of the sixth class, such fees as are now or may hereafter be allowed by law; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for the service of a warrant of arrest or any other process in a criminal case (where such service is in fact made) both going and returning ten cents per mile; for each mile traveled out of his county, both going to and returning from the place of arrest or other service of process, five cents per mile; for transporting prisoners to the county jail, a constable shall be allowed his actual expenses each way. In addition to the monthly salary allowed him herein, each constable shall receive for his own use, in civil cases, the fees which are now or may hereafter be allowed by law.

The compensations herein provided for justices of the peace and constables shall take effect and be in force on and after the first Monday in April, nineteen hundred and three.

16. The official reporter of the superior court shall receive the fees allowed by law.

17. The compensation allowed each officer above enumerated shall be in full

for all services, and shall include the pay of all deputies (except in the case of the district attorney wherein one deputy is provided for within the discretion of the board of supervisors) except as provided in section two hundred and fifteen of the County Government Act, approved eighteen hundred and ninety-seven, wherein it provides certain fees and commissions for the assessor and license collector.

§ 2. All acts and parts of acts inconsistent with this act in so far as they are inconsistent are hereby repealed.

§ 171. In counties of the fourteenth class the county and township officers shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries and fees, to wit:

1. The county clerk, two thousand seven hundred dollars per annum. In counties of this class there shall be and there is hereby allowed to the county clerk for his own use and to be paid out of the county treasury monthly in the same manner as salaries of other county officers are paid, the sum of five cents for the name of each defendant entered in the index labeled "General index—defendants" as provided in subdivision four of section four thousand two hundred four of the Political Code and in subdivision four of section one hundred seven of an act entitled "An act to establish a uniform system of county and township governments" approved April first, one thousand eight hundred ninety-seven, as amended March twenty-third, one thousand nine hundred one; and the further sum of five cents for each document recorded by said county clerk under the provisions of section one thousand three hundred eighty-seven of the Code of Civil Procedure; and the further sum of five cents for each name contained in the index of registration books, to be prepared by said clerk, under the provisions of section one thousand one hundred fifteen of the Political Code of the state of California.

2. The sheriff, four thousand dollars per annum. The sheriff shall also receive for his own use and benefit all fees, commissions and mileage for service of any papers issued by any court outside of his county.

3. The recorder, two thousand one hundred dollars per annum.

4. The auditor two thousand two hundred dollars per annum.

5. The treasurer, one thousand eight hundred dollars per annum.

6. The tax collector and license collector two thousand two hundred dollars per annum.

7. The assessor three thousand dollars per annum.

8. The district attorney two thousand seven hundred dollars per annum, and his traveling, office and other expenses in criminal matters and cases, and in civil actions, proceedings and all other matters in which the county is interested incurred by him in the performance of his duties; and all expenses incurred by him in the detection of crime and prosecution of criminal cases and in civil actions and proceedings and all other matters in which the county is interested.

9. The coroner such fees as are now or may be hereafter allowed by law.

10. The public administrator such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand one hundred dollars per annum and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. The justices of the peace such fees as are now or may be hereafter allowed by law.

14. Each member of the board of supervisors, six hundred dollars per annum and ten cents per mile mileage in traveling to and from his residence to the county seat; and for his services as road commissioner he shall receive twenty cents per mile for all distances actually traveled by him in the performance of his duties within the county; provided he shall not in any one year receive more than six hundred dollars as such road commissioner.

15. Constables, such fees as are now or may be hereafter allowed by law, and in addition thereto they shall receive three dollars per day for attending court when required to do so during the actual trial of the issues of fact of a case, or during the examination of a criminal charge before a magistrate while the evidence is being taken and not otherwise; provided that no more than three dollars shall be charged or received for any one day, and provided further that when the constable is required to attend upon the trial of more than one civil case on the same day his fees for attendance shall be equally apportioned to the several cases. Constables may also, by first obtaining an order of the district attorney of this county, or of a superior judge of this state, employ a temporary guard for the safe keeping or protection of prisoners when necessary, and shall be entitled to collect the actual, reasonable cost thereof as a county charge. [Amendment, Stats. 1905, 670.]

§ 172. In counties of the fifteenth class the county and township officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, thirty-two hundred and fifty dollars per annum.

2. The sheriff, four thousand dollars per annum; and such mileage as is now allowed by law and also all fees for service of papers in actions arising outside of his county.

3. The recorder, fifteen hundred dollars per annum, and four and one half cents per folio for every instrument of any character transcribed by him or his deputies, which said amount shall be paid out of the county treasury, and which payment shall be in full for all services, including indexing.

4. The auditor, two thousand dollars per annum.

5. The treasurer, fifteen hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The superior judge, three thousand five hundred dollars per annum.

8. The assessor, thirty-five hundred dollars per annum; provided, that in counties of this class there shall be seven field deputy assessors, who shall be appointed by the assessor of said county, and who shall hold office from twelve o'clock meridian from the first Monday in March of each year up to twelve o'clock meridian of the first Monday of July of each year; the salaries of each of said seven deputy assessors herein provided for is fixed at the sum of one hundred dollars per month, to include horse hire and traveling expenses for each month during which they hold office as herein provided, which said salaries shall be paid by said county at the same time and in the same manner and out of the same fund as the salary of the assessor; provided, that all commissions shall be paid into the county treasury.

9. The district attorney, twenty-five hundred dollars per annum.

10. The coroner, such fees as are now or may be hereafter allowed by law.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The superintendent of schools, twenty-two hundred and fifty dollars per annum, and actual traveling expenses when visiting the schools of the county, and keep his office open on all business days.

13. The surveyor, eight dollars per day while actually employed by the county.

14. Justices of the peace shall receive the following monthly salaries, to be paid each month and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases in townships having a population of more than eight thousand, seventy-five dollars per month; in townships having a population of less than eight thousand and more than five thousand, fifty dollars per month; in townships having a population of less than five thousand and more than two thousand, twenty-five dollars per month; in townships having a population of less than two thousand, ten dollars per month. In addition to the compensation received in criminal cases, each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Constables shall receive the following monthly salaries to be paid each month and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases, in townships having a population of more than eight thousand, seventy-five dollars per month; in townships having a population of less than eight thousand and more than five thousand, fifty dollars per month; in townships having a population of less than five thousand and more than two thousand, twenty-five dollars per month; in townships having a population of less than two thousand, ten dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

16. Supervisors, five hundred dollars each per annum, and mileage at the rate of ten cents per mile in going to and coming from the place of meeting of the board, not more than four board meetings per month; and as road commissioner, four dollars per day, not to exceed four hundred dollars per year in the aggregate.

17. For the purposes of subdivisions fourteen and fifteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment, Stats. 1905, 430.]

§ 173. In counties of the sixteenth class the county and township officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, thirty-five hundred dollars per annum. The sheriff shall also

receive, in all civil cases, for his own use and benefit, the fees, commissions and mileage, which are now or which may hereafter be allowed by law, and the fees or commissions for the service of all papers whatsoever issued by any court of the state outside of his county.

3. The recorder, twenty-nine hundred dollars per annum.

4. The auditor, twenty-four hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, fifteen hundred dollars per annum.

7. The assessor, four thousand dollars per annum.

8. The district attorney, eighteen hundred dollars per annum; provided, that he shall have power to appoint one assistant district attorney at a salary of one thousand dollars per annum, payable in the same manner as that of other county officers.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred [dollars] per annum, and actual traveling expenses when visiting the schools of his county, but he shall receive no extra compensation for his services on the board of education.

12. The surveyor shall receive one thousand three hundred dollars per annum for all work performed for the county and in addition thereto actual traveling and other necessary expenses incurred in connection with field-work; provided, that whenever the surveyor is directed by the assessor to plat, trace or otherwise prepare maps, plats, be allowed only the actual cost of preparing the same.

13. The justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases and all other criminal matters: In townships having a population of five thousand or more, sixty-five dollars per month; in townships having a population of twenty-five hundred and less than five thousand, fifty dollars per month; in townships having a population of fifteen hundred and less than twenty-five hundred, forty dollars per month; in townships having a population of one thousand and less than fifteen hundred, thirty dollars per month; in townships having a population of seven hundred and less than one thousand, twenty dollars per month; in townships having a population less than seven hundred, fifteen dollars per month. Each justice must pay into the county treasury, once a month, all fines collected by him. In addition to the monthly salary allowed herein, each justice may receive for his own use such fees as are now, or may be hereafter allowed by law for all services performed by him in civil actions. There shall be one justice of the peace for each of said townships and no more.

14. Constables shall receive the following salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases and all other criminal matters: In townships having a population of five thousand or more, fifty dollars per month; in townships having a population of twenty-five hundred and less than five thousand, forty dollars per month; in townships having a population of fifteen hundred and less than twenty-five hundred, thirty dollars per month; in

townships having a population of one thousand and less than fifteen hundred, twenty-five dollars per month; in townships having a population of seven hundred and less than one thousand, twenty dollars per month; in townships having a population less than seven hundred, fifteen dollars per month; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for the service of a warrant of arrest, or any other process in a criminal case or other criminal matter (when such service is, in fact, made) both going and returning, ten cents per mile; for each mile traveled out of his county, both going to and returning from the place of arrest or other service of process, five cents per mile; for transporting prisoners to the county jail, ten cents a mile each way. In addition to the monthly salary allowed him herein each constable may receive for his own use in civil cases the fees which are now or may hereafter be allowed by law.

15. The supervisors, each the sum of five dollars per day for actual service, (but not to exceed six hundred dollars per annum), and twenty cents per mile for all distances actually traveled, not to exceed two hundred dollars per annum, in the performance of duties as road commissioner, together with mileage at the rate of twenty cents per mile, in going only, from place of residence to the county seat, at each session of the board.

16. For the purposes of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained and determined by the board of supervisors, by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment, Stats. 1905, 485. In effect January 1, 1907.]

§ 174. In counties of the seventeenth class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twenty-five hundred dollars per annum; provided that in counties of this class there shall be and there hereby is allowed to the county clerk the following deputies, who shall be appointed by the county clerk and shall be paid salaries as follows: One chief deputy, at a salary of one hundred dollars per month; one court-room clerk, at a salary of one hundred dollars per month. The salaries of the chief deputy and court-room clerk herein provided for shall be paid by said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid.

2. The sheriff, six thousand dollars per annum.

3. The recorder, twenty-eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a deputy, who shall be appointed by the said recorder, and who shall be paid the following salary, to wit: Ninety dollars per month, said salary to be paid by said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the recorder is paid.

4. The auditor, twenty-two hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the county auditor one deputy, who shall be appointed by the county auditor and paid a salary of ninety dollars per month, said salary to be paid by said county in monthly

instalments, at the same time and in the same manner and out of the same fund as the salary of the county auditor is paid.

5. The treasurer, one thousand five hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, twenty-five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor two deputies, for a period of four months during each fiscal year, who shall be appointed by said assessor, and be paid a salary of seventy-five dollars per month, said salary to be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid.

8. The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the district attorney a deputy, who shall be appointed by said district attorney, and who shall be paid the following salary, to wit: Fifty dollars per month, said salary to be paid by said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The county surveyor, shall receive twelve hundred dollars per annum and necessary costs of transportation to and from, and necessary expense in the field while engaged on public work.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that in townships having a population of over six thousand, as shown by the United States census of nineteen hundred, in lieu of fees in criminal cases, and in full compensation for all services rendered in criminal cases, justices of the peace shall receive a salary of ninety dollars per month, payable at the same time and in the same manner as the salary of other county officers.

14. Constables, such fees as are now or may be hereafter allowed by law; provided, that in townships having a population of over six thousand, as shown by the United States census of nineteen hundred, in lieu of fees in criminal cases and in full compensation of all services rendered in criminal cases, constables shall receive a salary of seventy-five dollars per month, payable at the same time and in the same manner as salaries of other county officers; provided further, that in addition to the monthly salary herein allowed, constables of townships of over six thousand inhabitants shall also be allowed all necessary expense actually incurred outside of their townships, in pursuing and conveying prisoners to court or to prison, and said expense shall be audited and allowed by board of supervisors and paid out of the county treasury.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; and as road commis-

sioner, four dollars per day, not to exceed two hundred dollars per annum in the aggregate.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for the transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. [Amendment, Stats. 1905, 313.]

§ 175. In counties of the eighteenth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office the following salaries, to wit:

1. The county clerk, four thousand dollars per annum.
2. The sheriff, six thousand five hundred dollars per annum, and mileage for the service of any and all processes required by law to be served by him at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty.
3. The recorder, two thousand dollars per annum, and six cents per folio for every instrument of any character transcribed by him or his deputies, which said amount shall be paid by the county treasurer out of the county treasury.
4. The auditor, three thousand dollars per annum.
5. The treasurer, two thousand dollars per annum.
6. The tax collector, three thousand six hundred dollars per annum; provided, that as such tax collector or as ex officio license collector he shall not have or receive any compensation for or percentage upon the collection of any license.
7. The assessor, five thousand dollars per annum.
8. The district attorney, four thousand dollars per annum.
9. The coroner, such fees as are now, or may be hereafter allowed by law.
10. The public administrator, such fees as are now, or may be hereafter allowed by law.
11. The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, and one deputy at a salary of one thousand two hundred dollars per annum.
12. The surveyor, such fees as are now, or may hereafter be allowed by law.
13. Justices of the peace shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered as hereinafter provided:
In townships having a population of three thousand or more, eighty-five dollars per month, which said salary shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases, and all such fees as are allowed by law in civil cases shall be paid by said

justices of the peace into the county treasury, as the fees of county officers are paid in.

In townships having a population of not less than two thousand and under three thousand, thirty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

In townships having a population of not less than one thousand and under two thousand, twenty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

In townships having a population of less than one thousand, fifteen dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

14. Constables shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases:

In townships having a population of more than three thousand, fifty dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

In townships having a population of not less than two thousand and under three thousand, forty dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed in civil cases.

In townships having a population of not less than one thousand and under two thousand, twenty-five dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil cases.

In townships having a population of less than one thousand, ten dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed in civil cases.

In addition to the monthly salary allowed herein, each constable shall also be allowed ten cents per mile for each mile necessarily traveled in the execution of all criminal process, and all expenses necessarily and actually incurred by him in transporting prisoners to court and to prison.

15. It shall be the duty of each and every constable and justice of the peace to file, on or before the first Monday of each and every month, a full and complete statement, showing all business both civil and criminal done during the preceding month with the board of supervisors, and shall file same on or before said date above mentioned with the clerk of said board. The statement of the constables shall contain a full and correct account of all process served in

both civil and eriminal actions, also in criminal eases places where defendants were arrested, together with the mileage. And justices of the peace shall file a full and correct statement of all civil and eriminal actions and fees received therefrom. Said statements to be sworn to either before the county clerk or some officer allowed by law to administer oaths.

16. The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers aforesaid.

17. The provisions of section one hundred and seventy-five shall be in force from and after the passage of this act.

18. Each supervisor, one thousand dollars per annum for personal services performed by him as supervisor, member of the board of equalization and road commissioner. Each supervisor shall also receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, to be allowed by the board of supervisors and paid out of the county general fund; provided, that the amount so allowed him for such expenses shall not exceed forty dollars for any one month.

19. No fees shall be allowed the sheriff or tax collector for collecting licenses in counties of this class. [Amendment, Stats. 1905, 482.]

§ 176. In counties of the nineteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, thirty-two hundred and fifty dollars per annum; provided, that in counties of this class there shall be one deputy county clerk, who shall be appointed by the county clerk, and paid a salary of seventy-five dollars per month, said salary to be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid.

1½. A registration clerk to be appointed by the county clerk and hold office during the pleasure of the county clerk, at a salary of seventy-five dollars per month, payable out of the same fund and in the same manner as the salary of other county officers are paid.

2. The sheriff, five thousand dollars per annum, and such mileage as is now allowed by law; all expenses incurred in eriminal cases, and also all fees for serviees of papers in actions arising outside of his county and the sum of thirty-seven and one half cents per day, for feeding each prisoner committed to his custody; and one deputy sheriff to act as jailer, shall be appointed by the sheriff, and be paid a salary of fifty dollars per month, said salary to be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. The recorder, thirty-two hundred and fifty dollars per annum, and ten cents per name for inserting each name (as grantor or grantee), in the general index; and ten cents for each and every mortgage, trust deed and tax-sale abstracted in preparing abstract of mortgage and tax sales for the assessor; tax-sales provided for in section thirty-eight hundred and seventeen of the general fund.

4. The auditor, two thousand four hundred dollars per annum. The county auditor shall charge and collect for the clerical service of making estimates of tax sales provided for in section thirty-eight hundred and seventeen of the

Political Code, the sum of twenty-five cents for each tax-sale. If the property is delinquent for two years or less, the sum of fifty cents for each sale if the property is delinquent for more than two years.

If said estimates are returned to the auditor and redemption made within ten days from date of issue and prior to the charge of penalty, as provided for in section number thirty-eight hundred and seventeen of the Political Code, the amount charged for making said estimates shall be refunded to the redeptioner. If the redemption is not made as herein provided then the sum charged for making the estimate shall be retained by said auditor for his services of making said estimates.

5. The treasurer, eighteen hundred dollars per annum; provided, that in counties of this class there shall be one deputy treasurer, who shall be appointed by the treasurer, and paid a salary of sixty-five dollars per month; said salary to be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid; provided that a bond of the treasurer shall be executed with a reliable bond and security company, and that the cost of said bond, when duly approved, shall be a charge against the county and payable out of the general fund.

6. The tax collector, eighteen hundred dollars per annum, and as licensed tax collector, ten per centum, of all licenses collected; provided, that in counties of this class there shall be one deputy tax collector, who shall be appointed by the tax collector, and paid a salary of sixty-five dollars per month, said salary to be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid.

7. The district attorney, twenty-five hundred dollars per annum; provided, that in counties of this class there shall be one deputy district attorney, who shall be appointed by the district attorney, and paid a salary of one hundred dollars per month, said salary to be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

8. The superintendent of schools, eighteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, that in counties of this class there shall be one deputy superintendent of schools, who shall be appointed by the superintendent of schools, and paid a salary of seventy-five dollars per month, said salary to be paid by the said county in monthly instalments, at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

9. The assessor, thirty-two hundred and fifty dollars per annum; provided, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor, to hold office during the months of March, April, May, and June in each year and be paid a salary of seventy-five dollars per month, during said four months, said salary to be paid by the said county in monthly instalments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid.

10. The coroner, such fees as are now or may be hereafter allowed by law.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand or more, one hundred dollars a month; in townships having a population of twenty-five hundred and less than three thousand, fifty dollars a month; in townships having a population of two thousand and less than twenty-five hundred, forty-five dollars a month; in townships having a population of twelve hundred and less than two thousand, forty dollars a month; in townships having a population of one thousand and less than twelve hundred, twenty dollars a month; in townships having a population of four hundred and fifty and less than one thousand, fifteen dollars a month; in townships having a population of less than four hundred and fifty, five dollars a month. Each justice must pay into the county, once a month all fines collected by him in criminal cases, and the auditor must withhold warrants for salary until a sworn statement has been filed with him of all criminal cases tried and fines collected and paid into the county treasury. In addition to the monthly salary allowed herein, each justice may receive for his own use in civil cases the fees allowed by law. For all services appertaining to the coroner's office which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner in similar cases.

14. Constables shall receive the following salaries to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand or more, one hundred dollars a month; in townships having a population of twenty-five hundred and less than three thousand, eighty dollars a month; in townships having a population of two thousand and less than twenty-five hundred, seventy-seven and one half dollars a month; in townships having a population of twelve hundred and less than two thousand, seventy-five dollars a month; in townships having a population of one thousand and less than twelve hundred, thirty-five dollars a month; in townships having a population of four hundred and fifty and less than one thousand, twenty-five dollars a month; in townships having a population of less than four hundred and fifty, five dollars a month; provided further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as are now or may be hereafter allowed by law. For transporting prisoners to the county jail, the actual expense of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law.

15. The population of the several judicial townships, for the purpose of fixing the compensation of township officers, shall be ascertained and declared by the board of supervisors on the first Monday after the first day of January, nineteen hundred and three, and on the first Monday after the first day of January every succeeding two years thereafter.

16. Each member of the board of supervisors, nine hundred dollars per annum: And as road commissioner, three hundred dollars per annum.

17. Grand jurors or trial jurors in criminal cases in the superior court shall receive, as compensation for each day's attendance, per day, three dollars; and for each mile actually traveled, in attending court as a grand juror or juror in a criminal case, in the superior court in going only, per mile, fifteen cents. The county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each juror, and the auditor shall draw his warrant for the amount to which each juror is entitled, and the treasurer shall pay the same. [Amendment, Stats. 1905, 352.]

§ 177. In counties of the twentieth class, county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand two hundred dollars per annum; provided that in years when a great register is ordered the county clerk shall receive in addition to his regular salary the sum of five hundred dollars for such service.

2. The sheriff, forty-three hundred dollars per annum, and all commissions, fees and mileage for the service of papers or process coming from courts other than those of his own county.

3. The recorder, twelve hundred dollars per annum, and six cents per folio for every instrument of any character transcribed by him or his deputies, and five cents for each name indexed, which said amount shall be paid out of the county treasury, and which payment shall be in full for all services, including the recording of mining claims.

4. The auditor, two thousand two hundred dollars per annum. The county auditor shall charge and collect for the clerical labor of making estimates of tax sales, provided for in section thirty-eight hundred and seventeen of the Political Code, the sum of twenty-five cents for each tax sale, if the property is delinquent for two years or less; and the sum of fifty cents for each sale if said property is delinquent for more than two years. If said estimates are returned to the auditor and redemption made within twenty days from the date of issue and prior to the charge of penalties as provided in section thirty-eight hundred and seventeen of the Political Code, the amounts charged for making said estimates shall be refunded to the redemptioner; if redemption is not made as herein provided, then the sums charged for making the estimates shall be retained by the auditor for his services of making said estimates.

5. The treasurer, eighteen hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the treasurer one deputy, to be appointed by him, who shall receive from the county a salary of forty dollars (\$40) per month, to be paid by said county in monthly instalments at the same time and in the same manner and out of the same fund as the salary of the treasurer.

6. The tax collector, twenty-five hundred dollars per annum.

7. The assessor, forty-eight hundred dollars per annum, which shall be in full for all work in his office and for his field deputies.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now, or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum. His office shall be kept open on all business days from nine a. m. to five p. m. He shall be allowed his actual traveling expenses when visiting the schools of his county, provided that in counties of this class there shall be and there hereby is allowed to the county school superintendent of schools, one deputy to be appointed by him who shall receive from the county a salary of eighty-five dollars (\$85) per month, to be paid by said county in monthly instalments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools.

12. The surveyor, fifteen hundred dollars per annum, and in addition thereto all necessary expenses and transportation on work performed in the field; provided, that in counties of this class, when the board of supervisors order a new set of assessor's maps made, there shall be and there hereby is allowed to the surveyor, for such purpose, three draftsmen, who shall be appointed by the surveyor of said county, and shall be paid salaries as follows: one draftsman at a salary of eighty dollars (\$80) per month; two draftsmen at a salary of seventy-five dollars (\$75) per month each. The salaries of the draftsmen, herein provided for, shall be paid in monthly instalments at the same time and in the same manner and out of the same fund as the salary of the surveyor.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month, as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases: in townships having a population of eight thousand or more, seventy-five dollars per month; in townships having a population of six thousand and less than eight thousand, fifty dollars per month; in townships having a population of four thousand and less than six thousand, twenty-five dollars per month; in townships having a population of two thousand and less than four thousand, fifteen dollars per month; in townships having a population of one thousand and less than two thousand, ten dollars per month; in townships having a population of less than one thousand, five dollars per month; provided, that in all townships having an area equal to or exceeding one thousand square miles, such salary shall not be less than fifty dollars per month. Each justice must pay into the county treasury, once a month, all fines collected by him in criminal cases, and the auditor shall withhold warrant for salary until a sworn statement has been filed with him of all criminal cases tried and fines collected and paid into the county treasury. In addition to the monthly salary allowed herein, each justice may receive for his own use in civil cases the fees allowed by law. For all services appertaining to the coroner's office which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner in similar cases.

14. Constables shall receive the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having a population of eight thousand or more, seventy-five dollars a month; in townships having a population of six thousand and less than eight thousand, fifty dollars a month; in townships having a population of four thousand and less than six

thousand, twenty-five dollars a month; in townships having a population of two thousand and less than four thousand, fifteen dollars a month; in townships having a population of one thousand, and less than two thousand, ten dollars a month; in townships having a population of less than one thousand, five dollars a month; provided that in all townships having an area equal to or exceeding one thousand square miles, such salary shall not be less than fifty dollars per month; provided further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for service of a warrant of arrest or any other paper in a criminal case, both going and returning, ten cents per mile; for each mile traveled out of his county, both going and returning from the place of arrest or other service, five cents per mile. For transporting prisoners to the county jail, the actual cost of such transportation. In addition to the monthly salary allowed him herein, each constable shall receive for his own use in civil cases the fees allowed by law.

15. The population of the several townships shall be determined by the last United States census, and in case townships are formed after the taking of the census, then the population shall be determined by multiplying the vote for presidential electors cast in such township at the last preceding general election by five.

16. Each supervisor, five hundred dollars per annum, and fifteen cents per mile one way for traveling from his residence to the county seat; provided, that not more than four mileages shall be allowed in any one month. When serving as road commissioner, such fees as are now or may be hereafter allowed by law.

17. In counties of this class the official reporter of the superior court shall receive as full compensation for taking notes in civil and criminal cases tried in said court, and for taking notes of the proceedings and testimony at all coroner's inquests in the county, when requested by the coroner, and for taking notes of the testimony and proceedings in all examinations before committing magistrates, when requested by the district attorney, a monthly salary of one hundred dollars (\$100) payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes when required he shall receive the sum of five cents per folio for the original and five cents per folio for copy, said compensation for transcription in criminal cases, coroner's inquests and preliminary examinations to be audited and allowed by the board of supervisors as other claims against the county and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or when ordered by the judge by either party, or jointly by both parties, as the court may direct. When necessary for such reporter to travel away from the county seat in the performance of his duty, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the board of supervisors as are the other county charges. [Amendment, Stats. 1905, 301.]

§ 178. In counties of the twenty-first class county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a great

register of votes is ordered he shall receive six hundred and fifty dollars additional, which shall be in full for all services rendered in registering votes and making the great register.

2. The sheriff, six thousand dollars per annum. The sheriff shall also receive for his own use, for serving all papers issued from justice's courts, the same fees as are now or may be hereafter allowed by law to constables for like service.

3. The recorder, three thousand two hundred dollars per annum.

4. The auditor, eight hundred dollars per annum.

5. The treasurer, two thousand five hundred dollars per annum.

6. The tax collector, six hundred and fifty dollars per annum.

7. The assessor, five thousand five hundred dollars per annum.

8. The district attorney, two thousand five hundred dollars per annum; and the district attorney may appoint one deputy, which office is hereby created, at a salary of six hundred dollars per annum. The deputy district attorney to hold office at the pleasure of the district attorney. The salary of such deputy to be paid monthly and in the same manner as salaries of county officers are now paid.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, four hundred dollars per annum.

11. The superintendent of schools, two thousand dollars per annum; provided, if he shall engage in any other occupation during his term of office his salary shall only be six hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Each member of the board of supervisors shall receive for his services the sum of nine hundred dollars per annum, and twenty cents per mile in traveling to and from his residence to the county seat; provided, that no more than one mileage at any one term of the board shall be allowed, and that one fourth of the annual salary shall be paid at the close of each quarterly session of the board.

14. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that justices of the peace of townships containing four thousand five hundred inhabitants or more shall be allowed a salary of six hundred dollars per annum, payable monthly and in the same manner as salaries of county officers are paid, and shall be in full for all services rendered by him in criminal cases; provided further, that justices of the peace shall, before receiving their monthly salary, file with the auditor a statement of all fines received, together with the treasurer's receipt for same. All fines collected by justices of the peace shall be turned over to the county treasurer of said county within ten days after receipt of same; provided, that all fines collected for city offenses shall be turned over to the city treasurer of the city where the offense shall have been committed. In addition to the monthly salaries herein allowed, each justice of the peace may receive and retain for his own use such fees as are now or may be hereafter allowed by law, for all services rendered by him in civil actions.

15. Constables, such fees as are now or may be hereafter allowed by law; provided, that constables of townships containing two thousand inhabitants or more shall be allowed a salary of four hundred and eighty dollars per

annum, payable monthly and in the same manner as county officers are paid, and shall be in full for all services rendered by them in criminal cases; provided further, that they shall be allowed all necessary expenses actually incurred in arresting and conveying prisoners to the county jail which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury. In addition to the monthly salary herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law, for all services rendered by him in civil actions. For the purpose of regulating salaries of justices and constables, townships in this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred.

16. In counties of this class the official reporter of the superior court shall receive such fees as are now or may be hereafter allowed by law, and when necessary for such reporter to travel away from the county seat in the performance of his duty, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the board of supervisors as are other county charges. [Amendment, Stats. 1905, 361.]

§ 179. In counties of the twenty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a new great register of voters is ordered, he shall receive three hundred dollars additional, which shall be in full for all services required in registering voters and making the great register.

2. The sheriff, fifty-one hundred dollars per annum, which includes the fifteen hundred dollars heretofore allowed the under-sheriff. He shall also have for his own use all fees for service of all papers served by him and issued without his county. The said fifty-one hundred dollars to be in full of all fees or percentages as license collector.

3. The recorder, thirty-two hundred dollars per annum, in full of all services, including filing and recording mining and other location notices.

4. The auditor, twelve hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, twelve hundred dollars per annum, and he is hereby allowed in addition thereto ten deputies, to be appointed by him, who shall each receive four dollars per day for not exceeding three months in any calendar year, while engaged in the performance of their duties; provided, that the amount paid for services of deputy assessors shall not exceed twenty-four hundred dollars in any one year.

8. The district attorney, twenty-one hundred dollars per annum, and he is hereby allowed in addition thereto one deputy appointed by him, who shall receive nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and

necessary expenses for traveling in visiting schools in the county, to be allowed by the supervisors of the county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of nineteen hundred, as follows:

Townships having a population of three thousand or more shall belong to and be known as townships of the first class; townships having a population of two thousand and less than three thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand six hundred and less than two thousand shall belong to and be known as townships of the third class; and townships having a population of less than one thousand six hundred shall belong to and be known as townships of the fourth class.

Justices of the peace shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid, out of the general fund of the county, and which shall be in full of all services rendered by them in criminal cases, to wit:

In townships of the first class, eighty-five dollars per month; in townships of the second class, seventy-five dollars per month; in townships of the third class, twenty dollars per month; and in townships of the fourth class, ten dollars per month.

In addition to the monthly salaries herein allowed for services in criminal actions, cases and examinations, each justice of the peace may, for his own use, collect the following fees, and no other, in civil actions:

Each justice of the peace shall be allowed, in civil actions before him, for all services to be performed by him before trial, three dollars; and for the trial, and all proceedings subsequent thereto, including all affidavits, swearing of witnesses and jury, and the entry of judgment and issue of execution thereon, four dollars; and fifteen cents for each hour actually engaged in such trial after the expiration of eight hours; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, three dollars.

For certificate and transmitting transcript and papers on appeal, one dollar.

For copies of papers on docket, per folio, ten cents.

For issuing a search warrant, to be paid by the party demanding the same, fifty cents.

For celebrating a marriage and returning a certificate thereof to the county recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For taking depositions, per folio, fifteen cents.

For all services connected with the posting of estrays, one dollar.

In cases before the justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive three dollars; and the justice of the peace before whom the trial shall

take place shall receive the same fees as if the action had been commenced before him.

For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in like cases.

For issuing each process, writ, order, or paper required by law to be issued, not otherwise provided for, twenty-five cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, twenty-five cents.

For taking and approving bond or undertaking, including the justification of sureties, fifty cents.

14. Constables shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid, out of the general fund of the county, and which shall be in full of all services rendered by them in criminal cases, to wit:

In townships of the first class, one hundred dollars per month; in townships of the second class, seventy-five dollars per month; in townships of the third class, twenty dollars per month, and in townships of the fourth class, ten dollars per month. In addition to the monthly salaries herein allowed for services in criminal actions, cases and proceedings, each constable shall also be allowed all necessary expenses actually and properly incurred, in arresting and conveying prisoners to court or to prison, and also all necessary expenses actually incurred in the transportation of prisoners from prison to court, and the return of said prisoners to prison; and shall be allowed, also, for each mile actually traveled, both in going and coming, in the service of subpœnas, in criminal cases, per mile, ten cents; which said expenses and mileage shall be audited and allowed by the board of supervisors as other claims against the county are audited and allowed, and shall be paid out of the county treasury.

In addition to the monthly salaries herein allowed for services in criminal actions and cases, each constable may, for his own use, collect the following fees, and no others, in civil actions:

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when actually made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest, or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than one dollar and fifty cents per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writ and other papers, except summons, complaint, and subpœnas, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint, and subpœnas, for each person served, fifty cents.

For writing and posting each notice of sale of property, fifty cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per centum.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, in civil actions, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in civil actions, in going only, twenty-five cents per mile; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage shall be charged, allowed, or paid, in criminal or civil cases.

For each day's attendance in court, in civil cases, three dollars per day.

For executing a search warrant, two dollars; and for each mile necessarily traveled within his county in executing a search warrant, both in going and returning from place of search, fifteen cents; said fee and mileage to be paid by the party demanding the search.

For summoning a jury, in civil cases, two dollars, including mileage.

For commissions for receiving and paying over money on execution without levy, or when the goods or land levied on shall not be sold, one per centum. The fees herein allowed for the levy of an execution, and for making or collecting the money on execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the sum herein directed to be paid.

County officers must, and township officers may, demand the payment of all fees in advance.

Justices of the peace shall, on or before the first Monday of each month, pay into the county treasury all moneys collected by them on fines imposed and collected, and all moneys belonging to the county coming from any source.

The board of supervisors shall, within sixty days after the passage of this act, establish by ordinance, according to the provisions of subdivisions thirteen and fourteen of section twenty-six, the population of the various townships of this class of counties.

15. Each member of the board of supervisors, five hundred dollars per annum and ten cents per mile, one way, between residence and county seat, in attending upon all regular, special or adjourned meetings of the board of supervisors; provided, that the chairman of the board of supervisors may receive twenty-five cents per mile, one way, between residence and the county seat, when attending at the county seat for the single purpose of counting the money in the county treasury, as required by law.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a monthly salary of seventy-five dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original, and five cents per folio for a copy; where the

reporter is required to transcribe the whole or any part of his notes from day to day as the trial progresses, he shall receive, in addition to said sums hereinbefore provided, the further sum of five cents per folio for the original, and two and one half cents per folio for the copy. Said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties as the court may direct; provided, that where the services of the official reporter are required, in each civil case, the sum of ten dollars per diem, for each day of the trial thereof, shall be paid to the clerk of the court in advance, one half by each party, or in such other proportion as the court may direct; all per diem fees so collected shall be paid by the clerk into the treasury of the county. The portion of per diem fees in each case, which were paid by the prevailing party, shall be taxed and allowed as costs in the case; provided, also, that this act, so far as it relates to the official reporter of the superior court in counties of this class, shall take effect immediately. [Amendment, Stats. 1901, 741. In effect 12 m. on first Monday after January 1, 1903.]

§ 180. In counties of the twenty-third class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk four thousand five hundred dollars per annum; provided, that in years when a great register is ordered, the county clerk shall receive in addition to his regular salary the sum of eight hundred dollars for such service.

2. The sheriff, six thousand dollars per annum.

3. The recorder, three thousand two hundred dollars per annum.

4. The auditor, one thousand five hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, three thousand five hundred dollars per annum, and the fees and commissions now or hereafter allowed by law. The assessor shall also be allowed the following deputies, to be appointed by him, viz: One deputy for each bona fide increase of two hundred real estate statements made for assessment purposes over and above three thousand of such statements, and not to exceed in all five deputies. Each of such deputies shall receive monthly compensation of one hundred dollars, for the months of March, April, May and June of each year. The salary of said deputies to be paid in the same manner, and out of the same fund as the assessor, upon the presentation of a certificate that services have been performed, and signed by the assessor.

8. The district attorney, twenty-four hundred dollars per annum; assistant district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors twelve hundred dollars per annum, and mileage when acting as road commissioner, twenty-five cents per mile one way; provided the amount of mileage shall not exceed the sum of three hundred dollars in any one year. This subdivision of this section shall take effect and be in full force from and after the passage of this act.

16. Members of the board of education, each the sum of five dollars per day for actual service, together with mileage at ten cents per mile. [Amendment, Stats. 1905, 318.]

§ 181. In counties of the twenty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.
2. The sheriff, six thousand dollars per annum.
3. The recorder, two thousand dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, twenty-four hundred dollars per annum.
8. The district attorney, eighteen hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum, and his reasonable traveling expenses incurred in visiting schools of the county, to be fixed and allowed by the board of supervisors, not to exceed the sum of five hundred dollars per annum; provided, he shall devote his entire time to the duties of said office.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided further, that it shall be the duty of the board of supervisors of counties of this class to so employ him.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, five hundred dollars per annum, and mileage at the rate of twenty cents per mile from his home to and from the county seat.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and when requested by the district attorney, for preliminary examinations in justice's court, a monthly salary of one hundred dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for a transcription in crim-

inal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. [Amendment, Stats. 1901, 746.]

§ 182. In counties of the twenty-fifth class the officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, four thousand dollars per annum.
2. The sheriff, five thousand five hundred dollars per annum.
3. The recorder, two thousand dollars per annum, and six cents for each folio recorded. Provided, that the six cents per folio for recording shall go into effect immediately.
4. The auditor, twenty-four hundred dollars per annum.
5. The treasurer, twenty-seven hundred dollars per annum.
6. The tax collector, two thousand dollars per annum, and one deputy, at nine hundred dollars per annum.
7. The assessor, four thousand dollars per annum, and one deputy, at a salary of nine hundred dollars per annum.
8. The district attorney, twenty-five hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, and one deputy, at nine hundred dollars per annum.
12. The surveyor, shall receive one thousand five hundred dollars per annum for all work performed for the county, and in addition thereto, actual traveling and other necessary expenses incurred in connection with field-work; provided, that whenever the surveyor is directed by the assessor to plat, trace, or otherwise prepare maps, plats, or block-book for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, five hundred dollars per annum, and ten cents per mile for traveling from his residence to the county seat; provided that not more than one mileage for one session of the board shall be allowed. For serving as road commissioner, two hundred dollars per annum. [Amendment, Stats. 1905, 383.]

§ 183. In counties of the twenty-sixth class, the officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, five thousand dollars per annum, and twelve and a half cents for each elector registered.
2. The sheriff, seven thousand dollars per annum. He may retain for his own use the mileage and fees for the service of papers or process issued by any court of this state outside of his county.

3. The recorder, sixteen hundred dollars per annum, seven cents for each folio recorded, and five cents for each name indexed.

4. The auditor, two thousand dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, three thousand dollars per annum.

7. The assessor, five thousand dollars per annum.

8. The district attorney, four thousand dollars per annum; provided, that he shall be disqualified from engaging in any cause or action to which the county or state is not a party.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum (which shall include his services as a member of the board of education), and his actual traveling expenses when visiting schools, not to exceed ten dollars per district.

12. The surveyor shall receive twelve hundred dollars per annum, and traveling and official expenses in the county.

13. Each supervisor, six dollars per day while in the service of the county, and thirty cents per mile for traveling from his residence to the county seat.

14. In counties of this class the township officers shall receive the following compensation, to wit:

In townships having a population of six thousand, or more, justices of the peace shall receive a monthly salary of one hundred and twenty-five dollars per month, and constables a monthly salary of one hundred and twenty-five dollars per month;

In townships having a population of three thousand, or more, and less than six thousand, justices of the peace shall receive a monthly salary of one hundred dollars per month, and constables a monthly salary of one hundred dollars per month;

In townships having a population of eighteen hundred and forty-four, or more, and less than three thousand, justices of the peace shall receive a monthly salary of fifty dollars per month, and constables a monthly salary of sixty dollars;

In townships having a population of seventeen hundred and seventy-five, or more, and less than eighteen hundred and forty-four, justices of the peace shall receive a monthly salary of ten dollars per month, and constables a monthly salary of twenty dollars per month;

In townships having a population of seventeen hundred and sixty, or more, and less than seventeen hundred and seventy-five, justices of the peace shall receive a monthly salary of fifty dollars per month, and constables a monthly salary of seventy-five dollars per month;

In townships having a population of thirteen hundred and eighty, or more, and less than seventeen hundred and sixty, justices of the peace shall receive a monthly salary of ninety-five dollars per month, and constables a monthly salary of one hundred dollars per month;

In townships having a population of eleven hundred and seventy-five, or more, and less than thirteen hundred and eighty, justices of the peace shall

receive a monthly salary of eighty dollars per month, and constables a monthly salary of ninety dollars per month;

In townships having a population of eight hundred and eighty, or more, and less than eleven hundred and seventy-five, justices of the peace shall receive a monthly salary of twenty dollars per month, and constables a monthly salary of thirty dollars per month;

In townships having a population of seven hundred and eighty, or more, and less than eight hundred and eighty, justices of the peace shall receive a monthly salary of forty dollars per month, and constables a monthly salary of fifty dollars per month;

In townships having a population of seven hundred and sixty-five, or more, and less than seven hundred and eighty, justices of the peace shall receive a monthly salary of fifteen dollars per month, and constables a monthly salary of twenty dollars per month;

In townships having a population of six hundred and forty, or more, and less than seven hundred and sixty-five, justices of the peace shall receive a monthly salary of fifteen dollars per month, and constables a monthly salary of twenty dollars per month;

In townships having a population of six hundred and five, or more, and less than six hundred and forty, justices of the peace shall receive a monthly salary of fifteen dollars per month, and constables a monthly salary of twenty dollars per month;

In townships having a population of five hundred and sixty, or more, and less than six hundred and five, justices of the peace shall receive a monthly salary of fifty dollars per month, and constables a monthly salary of sixty dollars per month;

In townships having a population of two hundred and ten, or more, and less than five hundred and sixty, justices of the peace shall receive a monthly salary of fifteen dollars per month, and constables a monthly salary of twenty dollars;

In townships having a population of less than two hundred and ten, justices of the peace shall receive a monthly salary of fifteen dollars per month, and constables a monthly salary of twenty dollars per month;

The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that each constable shall be allowed and paid out of the county treasury for transporting prisoners to the county jail the actual expense of such transportation;

Said justices of the peace and constables may retain for their own use, the fees allowed by law in civil cases.

And provided, further, that for the purposes of this act, the population of the several townships shall be ascertained by multiplying the number of registered voters at the last preceding presidential election by five.

The salaries of township officers as herein provided for shall be paid in the same manner, at the same time, and out of the same funds, that county officers are paid.

15. The official reporter of the superior court shall receive, as full compensation in taking notes in civil and criminal cases tried in said court, a monthly salary of one hundred and fifty dollars, payable out of the county treasury at the same time and in the same manner and from the same fund

as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of fifteen cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

16. All acts or parts of acts in conflict with this act are hereby repealed. [Amendment, Stats. 1905, 384.]

§ 184. In counties of the twenty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries to wit:

1. The county clerk, three thousand dollars per annum, and five hundred dollars additional per annum for compiling great register of the county.

2. The sheriff, five thousand dollars per annum, and the fees, mileage or commissions for the services of all papers whatever issued by any court outside of this county, and all mileage for service of papers issued out of any civil case in his own county.

3. The recorder, two thousand dollars per annum; provided that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees so collected shall amount to more than one hundred and fifty dollars in any month, the said recorder may receive and retain for his own use, in addition to his salary, all fees in excess of one hundred and fifty dollars in any month so collected.

4. The auditor, seven hundred and fifty dollars per annum.

5. The treasurer, two thousand dollars per annum, and fees as now provided.

6. The tax collector, two thousand dollars per annum, and fees on delinquent poll-taxes, which shall be in full for all services as tax collector.

7. The assessor, three thousand two hundred dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. Superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of nineteen hundred as follows: Townships having a population of five thousand or more shall belong to and be known as townships of the first class; townships having a population of three thousand and less than five thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand and less than three thousand, shall belong to and be known as townships of the third class, and townships having a population of less than one thousand, shall belong to and be known as townships of the fourth class. Justices of the peace and constables shall receive the following salaries, which

shall be paid monthly, in the same manner as salaries of county officers are paid, and which shall be in full of all services rendered by them in criminal cases, to wit: In townships of the first class, seventy-five dollars; in townships of the second class, fifty-five dollars; in townships of the third class, thirty dollars, and in townships of the fourth class, twenty dollars. In addition of [to] the monthly salaries herein allowed, each justice of the peace and constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law, for all services rendered by him in civil actions. Constables shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury.*

14. In counties of this class the official reporter of the superior court shall receive as full compensation for taking notes in civil and criminal cases in the superior court, tried therein, and at preliminary examinations before the justices' courts of the county and for taking notes at all coroners' inquests, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salary of other county officers, and for transcription of said notes, when required, the sum of ten cents per folio for the original, and five cents per folio for a copy shall be paid the reporter making the transcription; provided, that said official reporter herein designated shall perform all the services necessary in the superior court of the county, at all preliminary examinations held before justices of the peace of the county and at all coroner's inquests. Said compensation for transcription in criminal cases, at preliminary examinations and at coroner's inquests to be allowed on the order of the court, or the coroner, as the case may be, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. Said official reporter shall furnish his own type-writing machine, and shall also receive from the county his actual traveling expenses, when required to travel to and from any justice's court within the county, except the county seat.

15. Each member of the board of supervisors shall receive one thousand dollars per annum, payable monthly, which shall be in full for all services as supervisors.

The provisions of subdivisions thirteen, fourteen, and fifteen of this section shall take effect and be in force thirty days from and after the passage of this act. [Amendment, Stats. 1905, 391.]

§ 185. In counties of the twenty-eighth class the county and township officers shall receive as compensation for the services required of them by law, or by virtue of their offices the following salaries and fees, to wit:

1. The county clerk, three thousand two hundred fifty dollars per annum; and in each year in which a new and complete registration of voters is required by law, he shall receive such additional amount as shall be necessary to pay deputy registration clerks for taking affidavits of registration outside of the office at the rate of ten cents each, the claims for which shall be presented to and allowed by the board of supervisors as other claims are presented and allowed.

2. The sheriff, six thousand dollars per annum.

* § 184, subd. 13.—Held unconstitutional in *Johnson vs. Gunn*, Dist. Ct. App., July 24, 1905.

3. The recorder, two thousand two hundred fifty dollars per annum. The recorder shall collect and pay into the county treasury the fees required by law.

4. The auditor one thousand dollars per annum.

5. The treasurer two thousand dollars per annum.

6. The tax collector one thousand dollars per annum.

7. The assessor four thousand two hundred and fifty dollars per annum.

8. The district attorney, two thousand two hundred and fifty dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now, or may hereafter be allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, including services on board of education. He shall be allowed his actual traveling expenses not to exceed three hundred dollars per annum; he shall also be allowed one deputy whose salary shall be fifty dollars per month, payable the same as the salaries of county officers; provided that he shall keep his office open from nine o'clock a. m. to five o'clock p. m. of each business day.

12. The surveyor shall receive a per diem of ten dollars for all work performed for the county, and in addition thereto, all necessary expenses and transportation on work performed in the field.

13. The justices of the peace, such fees as are now or may hereafter be allowed by law; provided, that the amount allowed by the board of supervisors for services in prosecutions under section six hundred and forty-seven of the Penal Code, and prosecutions for fraudulently evading or attempting to evade the payment of fare for traveling on any railroad, shall not exceed twenty dollars for any one month; provided, further, that the amount allowed by the board of supervisors for services in prosecutions of misdemeanor cases other than those hereinbefore specified in this subdivision, shall not exceed the sum of thirty dollars for any one month.

14. The constable shall receive the following fees, to wit: For serving summons and complaint, for each defendant served, one dollar; for each copy of summons for service when made by him, twenty-five cents; for levying writ of attachment or execution or executing order of arrest or for the delivery of personal property, one dollar; for keeping personal property, such sum as the court may order, but no more than two dollars per day shall be allowed for a keeper when necessarily employed; for taking bond or undertaking, fifty cents; for copies of writs and other papers, except summons, complaints and subpoenas, per folio ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for copies; for serving any writ, notice or order, except summons, complaints or subpoenas, for each person served, fifty cents; for writing and posting each notice of sale of property, twenty-five cents; for serving subpoenas, each witness, including copy, twenty-five cents; for collecting money on execution, two and one half per centum, to be charged against the defendant named in the execution; for executing and delivering certificate of sale, one dollar; for executing and delivering constable's deed, two dollars; for every mile necessarily traveled in his township, in going only, to serve any civil or criminal process or paper, or to take a prisoner

before a magistrate or to prison, twenty-five cents; outside of his township, but within his county, twenty cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the more distant if they live in the same direction; for each mile necessarily traveled outside of his county in making criminal arrests, both going and returning from place of arrest, ten cents; in transporting prisoners to the county jail, or before a magistrate, either upon arrest or for trial or examination, or after conviction, he shall receive in addition to the above mileage, his actual and necessary expenses for himself and prisoner; provided, that where two or more prisoners are transported at the same time, no more than one mileage shall be allowed; for making each arrest in criminal cases, one dollar and fifty cents; for sales of estrays, the same fees as for sales on execution; for summoning a jury, two dollars, including mileage; for all other services, the same fees as are allowed sheriffs for like services; provided further, that no more than sixty dollars shall be allowed to any constable in counties of this class in any one month for fees and mileage in criminal matters.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to and from the county seat; provided, such mileage shall not be allowed more than once a month; and for his services as road commissioner, he shall receive twenty cents per mile one way for all distances actually and necessarily traveled by him in the performance of his duties; provided, he shall not in any one year receive more than three hundred dollars as such road commissioner.

16. In counties of this class grand jurors and jurors in the superior court shall receive for each day's attendance the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat, the sum of twenty-five cents; such mileage to be allowed but once during each session such jurors are required to attend. [Amendment, Stats. 1905, 370.]

§ 186. In counties of the twenty-ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

The county clerk, two thousand two hundred and fifty (\$2250) dollars per annum, and when a new great register of voters is ordered, he shall receive in addition, fifteen (15) cents per name for each voter registered, which shall be in full for all services required in registering voters and making the great register; provided, that in counties of this class there shall be and is hereby allowed to the county clerk, a deputy, who shall be appointed by said county clerk, who shall be paid a salary of seventy-five dollars (\$75) per month, said salary to be paid by said county in monthly instalments at the same time and in the same manner and out of the same fund, as the salary of the county clerk is paid.

2. The sheriff, four thousand five hundred dollars (\$4500) per annum; and, also all fees for services of papers in actions arising outside of his county.

3. The recorder, two thousand one hundred dollars (\$2100) per annum.

4. The auditor, one thousand two hundred dollars (\$1200) per annum.

5. The treasurer, two thousand one hundred dollars (\$2100) per annum.

6. The tax collector, one thousand (\$1000) per annum.

7. The assessor, two thousand five hundred dollars (\$2500) per annum; and also such fees and commissions as are allowed by law.

8. The district attorney, two thousand four hundred dollars (\$2400) per annum.

9. The superintendent of schools, two thousand one hundred dollars (\$2100) per annum and actual traveling expenses when visiting the schools of his county.

10. The coroner, such fees as are now or may be hereafter allowed by law.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law, and in addition thereto three dollars (\$3) per day for each day's actual attendance in court during a jury trial therein or a preliminary examination for felony; provided, that no constable shall receive more than three dollars (\$3) for any one day's attendance on any court.

15. Each supervisor, fifty dollars (\$50) per month and mileage at the rate of ten cents per mile for traveling to and from his residence to the county seat at each session.

16. Each member of the board of education, including the secretary, five dollars (\$5) per day when the board is in session, and ten cents per mile for traveling to and from his or her residence to the county seat at each session, unless otherwise provided for by law. [Amendment, Stats. 1905, 299. **In effect** after 12 m. first Monday in January, 1907.]

§ 187. In counties of the thirtieth class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, five thousand seven hundred dollars per annum. Also, the following, to be audited and paid as other county charges: For every mile necessarily traveled in executing any warrant of arrest, twenty-five cents per mile; for taking prisoners to magistrates or jail, the actual cost of such transportation.

3. The recorder, three thousand dollars per annum, which shall be in full for all services.

4. The auditor, one thousand eight hundred dollars per annum.

5. Tax collector, two thousand dollars per annum.

6. Assessor, three thousand two hundred dollars per annum.

7. The treasurer, one thousand six hundred dollars per annum.

8. The district attorney, one thousand eight hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, two thousand five hundred dollars per annum, which shall be in full for all services performed, including the visiting of the schools of his county; provided, that he may receive such fees as are

now or may hereafter be allowed by law for services as a member of the county board of education.

12. The county surveyor shall receive one thousand eight hundred dollars per annum, and the necessary cost of transportation to and from, and necessary expenses while in the field when engaged on public work.

13. For the purpose of regulating the compensation of justices of the peace, townships in this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred, as follows:

Townships having a population of four thousand or more, shall belong to and be known as townships of the first class; townships having a population of two thousand and less than four thousand shall belong to and be known as townships of the second class; townships having a population of one thousand and less than two thousand shall belong to and be known as townships of the third class; townships having a population of over five hundred and less than one thousand shall belong to and be known as townships of the fourth class; and townships having a population of less than five hundred shall belong to and be known as townships of the fifth class.

Justices of the peace shall receive the following salaries, which shall be paid monthly, in the same manner such salaries of county officers are paid, and shall be in full of all services rendered by them in criminal cases; provided, however, that if two justices of the peace shall be elected and qualify in any township, then the said justices shall each receive one half ($\frac{1}{2}$) of the salary herein provided for:

In townships of the first class, seventy dollars;

In townships of the second class, sixty dollars;

In townships of the third class, forty dollars;

In townships of the fourth class, twenty dollars;

In townships of the fifth class, ten dollars;

Provided, that each justice of the peace shall, before receiving his monthly salary, file with the auditor a statement of all fines received, together with the treasurer's receipt for the same. In addition to the monthly salaries herein allowed, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law, for all services rendered by him in civil actions.

14. For the purpose of regulating the salaries of constables, townships in this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred, as follows: Townships having a population of four thousand or more shall belong to and be known as townships of the first class; townships having a population of two thousand and less than four thousand shall belong to and be known as townships of the second class; townships having a population of one thousand and less than two thousand shall belong to and be known as townships of the third class; townships having a population of over five hundred and less than one thousand shall belong to and be known as townships of the fourth class; and townships having a population of less than five hundred shall belong to and be known as townships of the fifth class.

Constables shall receive the following salaries, which shall be paid monthly,

in the same manner as such salaries of county officers are paid, and shall be in full of all services rendered by them in criminal cases; provided, however, that if two constables shall be elected and qualify in any township, then each of the said constables shall each receive one half ($\frac{1}{2}$) of the salary herein provided for:

In townships of the first class, eighty dollars;

In townships of the second class, seventy dollars;

In townships of the third class, fifty dollars;

In townships of the fourth class, twenty-five dollars;

In townships of the fifth class, ten dollars.

In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury.

15. Each supervisor, six dollars per day when the board is in session and twenty cents per mile for traveling from his residence to the county seat. For his services as road commissioner, three hundred dollars per annum, payable in monthly instalments.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in all civil and criminal causes and proceedings in said court, and for taking notes of the proceedings and testimony at all coroner's inquests in the county, and for taking notes of the testimony and proceedings in all examinations before committing magistrates, and for taking notes of the testimony and proceedings of cases and commissions for the examination of persons charged with being of unsound mind, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for the transcription of said notes, when the transcription thereof is required by law, or by order of the court, or by demand of any party to the suit or proceeding, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in all criminal cases and coroner's inquests and examinations of persons charged with being of unsound mind, to be audited and allowed by the board of supervisors, as other claims against the county, and in civil cases and proceedings to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, when and in such proportions as the court may direct. When necessary for such reporter to travel away from the county seat, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the board of supervisors as are other county charges. [Amendment, Stats. 1905, 310.]

§ 188. In counties of the thirty-first class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a new great register of voters is ordered, he shall receive five hundred dollars additional, which shall be in full for all services required in registering voters and making the great register.

2. The sheriff, four thousand five hundred dollars per annum.
3. The recorder, two thousand five hundred dollars per annum.
4. The auditor, fifteen hundred dollars per annum.
5. The treasurer, two thousand dollars per annum.
6. The tax collector, twelve hundred dollars per annum.
7. The assessor, three thousand dollars per annum.
8. The district attorney, two thousand three hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The county surveyor, one thousand five hundred dollars per annum, he to furnish all necessary instruments; but transportation charges for field-work shall be allowed him. He shall not be required to perform county work more than two thirds of the working days in any month except on payment of fees now allowed by law.

13. Justices of the peace, the following monthly salaries, to be paid each month as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of twenty-five hundred and more, sixty-five dollars. In townships having a population of fifteen hundred and less than twenty-five hundred, forty dollars. In townships having a population of one thousand and less than fifteen hundred, twenty-five dollars. In townships having a population of less than one thousand, ten dollars. Each justice must pay into the county treasury once a month, all fines collected by him. In addition to the monthly salary allowed herein each justice may receive for his own use such fees as are now or may hereafter be allowed by law, for all services performed by him in civil actions. In all townships having a population of less than twenty-five hundred if there be more than one justice, the compensation allowed herein shall be equally divided between them so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single justice in such township.

14. Constables, the following salaries, which shall be paid monthly as salaries of county officers are paid, and shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of twenty-five hundred or more, seventy dollars. In townships having a population of fifteen hundred and less than twenty-five hundred, forty-five dollars. In townships having a population of one thousand and less than fifteen hundred, thirty dollars; in townships having a population of less than one thousand, fifteen dollars. In addition to the monthly salary allowed herein each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all the services performed by him in civil actions. In all townships having a population less than twenty-five hundred, if there be more than one constable, the compensation herein allowed shall be equally divided between them so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single constable in such township. The board of supervisors shall during each and every year, ascertain and determine the population of the several townships of the county for

the purposes of ascertaining the compensation of township officers regulated by this section, in proportion to their duties.

15. Each supervisor, five hundred dollars per annum and his necessary expenses when attending to the business of his county, other than the meetings of the board, and thirty cents per mile in going from his residence to the county seat at each meeting of the board, and three hundred dollars per annum, payable quarterly, for services as road commissioner.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and, when requested by the district attorney, in preliminary examinations and inquests, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for the copy; said compensation for transcriptions in criminal cases, preliminary examinations, and inquests, to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

17. Subdivisions twelve and fifteen of this section shall take effect immediately. [Amendment, Stats. 1901, 757. In effect partly immediately and partly 12 m. on the first Monday after January 1, 1903.]

§ 189. In counties of the thirty-second class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and in any year when a new great register of voters is required by law, he shall receive five hundred dollars additional for said year, which shall be in full for all services required in registering voters and making such new great register.

2. The sheriff, four thousand five hundred dollars per annum, and mileage at the rate of twenty-five cents per mile necessarily traveled in going only.

3. The recorder, three thousand five hundred dollars per annum.

4. The auditor, one thousand eight hundred dollars per annum.

5. The treasurer, one thousand eight hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, four thousand dollars per annum.

8. The district attorney, two thousand four hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor shall receive one thousand six hundred dollars per annum for all work performed for the county, and in addition therto, actual traveling and other necessary expenses incurred in connection with field-work; provided, that whenever the surveyor is directed by the assessor to plat, trace, or other-

wise prepare maps, plats, or block-books for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of three thousand five hundred or more, seventy-five dollars per month. In townships having a population of not less than two thousand nor more than three thousand five hundred, seventy dollars per month. In townships having a population of not less than twelve hundred nor more than two thousand, fifteen dollars per month. In all townships having a population of less than twelve hundred, ten dollars per month. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law, and shall also collect and retain for his own use such fees as are now or may be hereafter allowed by law for services rendered by him as coroner, when acting as such.

14. Constables shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand five hundred or more, seventy-five dollars per month. In townships having a population of not less than two thousand nor more than three thousand five hundred, seventy dollars per month. In townships having a population of not less than twelve hundred nor more than two thousand, fifteen dollars per month. In all townships having a population of less than twelve hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions; and he shall also be allowed his actual and necessary expenses incurred in executing any warrant outside of his county issued by a magistrate or justice of his county.

Constables shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to the county jail, which said expenses shall be audited and allowed by the board of supervisors, and paid out of the county treasury.

15. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty-five cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board, and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools is paid. Claims for such services and mileage shall be presented to the board of supervisors, and shall be allowed at the rate above named, in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred and seventy of the Political Code.

16. Each supervisor, nine hundred dollars per annum, and twenty cents

per mile for traveling from his residence to the county seat; provided, that when a supervisor is also road commissioner, he shall receive, in addition to the twenty cents per mile allowed to him by law as such road commissioner his actual traveling expenses, the total mileage and expenses not in any one year to exceed the sum of three hundred dollars. [Amendment, Stats. 1905, 358. In effect after 12 m. on the first Monday after January 1, 1907.]

§ 190. In counties of the thirty-third (33) class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars (\$1500) per annum.

2. The sheriff, three thousand five hundred dollars (\$3500) per annum, and a jailer at fifty dollars (\$50) per month, to be paid out of the county treasury; provided, the sheriff shall also receive for his own use and benefit his necessary expenses in all criminal cases, to be allowed as other county charges are allowed by law; and, provided further, that the sheriff shall also receive for his own use and benefit, the mileage, fees and commissions for all services of all papers whatsoever issued by any court of the state outside of his own county.

3. The recorder, one thousand five hundred dollars (\$1500.) per annum.

4. The auditor, one thousand dollars (\$1000) per annum.

5. The treasurer, one thousand five hundred dollars (\$1500) per annum.

6. The tax collector, twelve hundred dollars (\$1200) per annum and ten per centum of all licenses collected by him; and a deputy, at four dollars (\$4) per day for not more than one hundred (100) days in any one year, to be paid out of the county treasury.

7. The assessor, two thousand five hundred dollars (\$2500) per annum and two deputies at a salary of five dollars (\$5) each per day for not more than one hundred (100) days in any one year, and two deputies additional, at a salary of five dollars (\$5) each per day for not more than fifty (50) days in any one year; such deputies to be paid out of the county treasury.

8. The district attorney, two thousand dollars (\$2000) per annum and necessary traveling expenses to be allowed by the board of supervisors.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars (\$1500) per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs one surveyor or civil engineer.

13. In counties of this class, the township officers shall receive the following compensations, to wit: In townships having a population of over four thousand (4000), justices of the peace shall receive a monthly salary of sixty (\$60) dollars per month, and constables a monthly salary of sixty-five dollars (\$65) per month. The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases.

In townships having a population of more than twenty-seven hundred (2700),

and not exceeding four thousand (4000), justices of the peace shall receive a monthly salary of thirty dollars (\$30) per month, and constables a monthly salary of forty dollars per month. The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases.

In townships having a population of more than two thousand (2000) and less than twenty-seven hundred (2700), justices of the peace shall receive a monthly salary of twenty-five dollars (\$25) per month and constables a monthly salary of thirty-five dollars (\$35) per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases.

In townships having a population of less than two thousand (2000), justices of the peace shall receive a monthly salary of twenty dollars (\$20) per month and constables a monthly salary of twenty-five dollars (\$25) per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases; provided, that where a constable shall be required to travel outside of his own township, in serving or executing a warrant of arrest or any other paper in a criminal case, he shall be allowed, in addition to the salary hereinbefore provided, his actual expenses incurred in serving or executing the same, to be allowed by the board of supervisors; for transporting prisoners to the county jail, the actual expenses of such transportation; and provided further, that for the purpose of this act, the population of the several townships shall be ascertained by multiplying the number of registered voters at the last general election of each township, by five. In addition to the above salaries allowed said justices of the peace and constables for their services in criminal cases, they may retain for their own use the fees allowed by law in civil cases.

14. Each supervisor, six hundred dollars (\$600) per annum and twenty (20) cents per mile traveling to county seat, which shall be in full compensation for all services, both as supervisor and road commissioner; provided, that in case the said supervisors shall not serve as road commissioners, the salary for supervisor shall be four hundred dollars (\$400) per annum.

15. For attending as a grand juror, or a trial juror in criminal cases only, in the superior court, for each day's attendance, three (3) dollars; for each mile actually traveled one way as such grand juror, or trial juror in criminal cases, in the superior court, under summons or order of the court, twenty-five cents. The county clerk shall certify to the auditor the number of days attendance, and the number of miles traveled by each juror and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

16. This act shall take effect and be in force from and after its passage and so far as it relates to the fees and mileage of jurors and traveling expenses of constables, shall take effect immediately, but shall not affect the compensation of other officers during the present term of office. [Amendment, Stats. 1905, 376.]

§ 191. In counties of the thirty-fourth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand four hundred dollars per annum, and during each year in which a general election is held throughout the state he shall in addition to said salary receive each month for the months of August, September, October and November, one hundred dollars, and the same shall be so paid from the same fund as other salaries are paid.

2. The sheriff, four thousand dollars per annum, and the fees, mileage and commissions for the services of all papers issued by any court of the state outside of this county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.

3. The recorder, one thousand five hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall amount to more than one hundred and twenty-five dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, all fees in excess of one hundred and twenty-five dollars, and not exceeding one hundred and seventy-five dollars, in any month so collected; so that the amount of fees thus received by the recorder for his own use, plus the salary, shall not exceed the sum of one hundred and seventy-five dollars in any one month.

4. The auditor, one thousand dollars per annum.

5. The treasurer, one thousand four hundred dollars per annum.

6. The tax collector, one thousand two hundred dollars per annum, and ten per centum of all licenses collected by him.

7. The assessor, twenty-six hundred dollars per annum; provided, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor of said county and who shall hold office from twelve o'clock meridian of the first Monday of March of each year up to twelve o'clock meridian of the first Monday in July of each year. The salary of said deputy assessor herein provided for is hereby fixed at the sum of one hundred dollars per month during which months he shall hold office as herein provided, which said salary shall be paid by said county at the same time and in the same manner and out of the same fund as is the salary of the assessor.

8. The district attorney, fifteen hundred dollars per annum.

9. The coroner, six hundred dollars per annum.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand dollars per annum, and actual traveling expenses while visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided further, that it shall be the duty of the board of supervisors of counties of this class to so employ him.

13. Supervisors, each the sum of six hundred dollars per annum for all services performed by them, as supervisors, and members of the board of equalization and road commissioners; provided, that each supervisor shall receive

ten cents for each mile traveled by the ordinary route, in going from his residence to the county seat and returning, once during each month.

14. For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred; townships having a population of two thousand four hundred and not over four thousand shall be classified as townships of the first class, and townships having a population of less than two thousand four hundred shall belong to and be known as townships of the second class.

15. In townships of the first class, justices of the peace shall receive forty dollars a month to be paid each month out of the same fund and at the same time as the county officers are paid, and which sum shall be in full compensation for all services rendered by them in criminal cases. In townships of the second class, justices of the peace shall receive thirty dollars per month to be paid each month out of the same fund and at the same time as the county officers are paid and which sum shall be in full compensation for all services rendered by them in criminal cases.

16. Constables in counties of this class shall receive the following monthly salaries to be paid each month out of the same fund and at the same time as the county officers are paid, which sum shall be in full compensation for all services rendered by them in criminal cases, the same to include all costs of transportation of all prisoners within the county, to wit: Constables in townships of the first class shall receive a monthly salary of sixty dollars per month, and constables of townships of the second class shall receive a monthly salary of forty dollars per month. Provided further, that when any constable is required to go out of his own county to serve a warrant of arrest or any other paper in a criminal case he shall be allowed mileage both going and coming, outside of his own county, at the rate of ten cents per mile, but shall not be allowed any sum for any other expenses.

17. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, such fees as are now or may be hereafter provided by law; said compensation for per diem and transcription in criminal cases to be audited and allowed upon a written order of the court, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Jurors' and witness fees, in criminal cases, shall be as follows:

18. For attending as a grand juror or a trial juror in the superior court, in criminal cases only, for each day's attendance, per day, three dollars, for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, twenty-five cents and the county clerk shall certify to the auditor the number of days attendance and number of miles traveled by each juror, and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

Witness fees shall be as follows:

19. For each day's actual attendance, when legally required to attend upon the superior court, per day, one dollar and fifty cents in criminal cases; mile-

age actually traveled, one way only, per mile, ten cents; provided, however, that such per diem and mileage shall only be allowed on a showing to the court, by the witness, that he is in indigent circumstances and is unable to bear the expense incident to attending court, while required so to do, and that such per diem and mileage are necessary for the expenses of the witness in attending; and the court shall determine the necessity of the same, and shall then make an order directing the auditor to draw his warrant on the county treasurer for the amount allowed, and the treasurer shall pay the same. The court may disallow any fee to a witness unnecessarily subpoenaed.

This act shall take effect and be in force from and after its passage and so far as the same relates to the salary of the justices of the peace and constables and the compensation of the official reporter of the superior court, it shall affect and apply to present incumbents. [Amendment, Stats. 1905, 335.]

§ 192. In counties of the thirty-fifth class, the county officers shall receive, as compensation for the service required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars per annum.
2. The sheriff, four thousand two hundred and fifty dollars per annum; provided, the sheriff shall also receive for his own use and benefit his necessary expenses in all criminal cases, to be allowed as other county charges are allowed by law; and, provided further, that the sheriff shall also receive for his own use and benefit, the mileage, fees, and commissions for all service of all papers whatsoever issued by any court of the state outside of his county.
3. The recorder, one thousand eight hundred dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, one thousand eight hundred dollars per annum.
6. The tax collector, five hundred dollars per annum; provided, as license collector, he shall, in addition, be entitled to receive, and retain for his own use and benefit, ten per centum on all licenses collected by him.
7. The assessor, one thousand eight hundred dollars per annum, and one deputy not to exceed five dollars per day for not more than one hundred and twenty-five days in any year, and one field deputy not to exceed five dollars per day, for not more than one hundred and twenty-five days in any one year to be paid out of the county treasury.
8. The district attorney, one thousand eight hundred dollars per annum; provided, he may charge and receive for his own use necessary expenses for traveling on county and public business, to be allowed as other county charges are allowed by law.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county. And if the board of supervisors provide that he shall not engage in teaching, then he shall receive one thousand two hundred dollars per annum, and traveling expenses, not to exceed three hundred dollars per annum, which expenses are to be allowed and paid as a county charge.
12. The surveyor, such fees as are now or may be hereafter allowed by law;

provided, he shall be given all work for the county in which the county employs one surveyor or civil engineer.

13. In counties of this class the township officers shall receive the following compensation, to wit:

In townships having a population of three thousand or more, justices of the peace shall receive a monthly salary of forty dollars per month, and constables a monthly salary of sixty dollars per month.

In townships having a population of more than twenty-two hundred and less than three thousand, the justices of the peace shall receive a monthly salary of thirty-five dollars per month, and constables a monthly salary of fifty-five dollars per month.

In townships having a population of more than eighteen hundred and less than twenty-two hundred, justices of the peace shall receive a monthly salary of thirty dollars per month, and constables a monthly salary of fifty dollars per month.

In townships having a population of more than fourteen hundred and [not] less than eighteen hundred, justices of the peace shall receive a monthly salary of twenty-five dollars per month, and constables a monthly salary of forty-five dollars per month.

In townships having a population of less than fourteen hundred, justices of the peace shall receive a monthly salary of twenty-five dollars per month, and constables a monthly salary of forty dollars per month. The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that, in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as they are now or may be hereafter allowed by law, for transporting prisoners to the county jail, the actual expenses of such transportation; and, provided further, that for the purpose of this act, the population of the several townships, shall be ascertained by multiplying the number of registered voters at the last general election by five. But said justices of the peace and constables may retain for their own use, the fees allowed by law in civil cases.

14. Each supervisor, four hundred dollars per annum, and ten cents per mile for traveling to and from his residence to the county seat at each session; and, unless otherwise provided by law, when serving as road commissioner, three dollars per day. But he shall not in any one year receive more than three hundred dollars for services as such road commissioner.

15. All acts or parts of acts in conflict with this act are hereby repealed. [Amendment, Stats. 1903, 200.]

§ 193. In counties of the thirty-sixth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, twenty-two hundred dollars per annum.
2. The sheriff, forty-five hundred dollars per annum.
3. The recorder, three thousand dollars per annum.
4. The auditor, one thousand dollars per annum.

5. The treasurer, one thousand eight hundred dollars per annum.
6. The tax collector, one thousand dollars per annum, and five per centum on all licenses collected by him as license collector.
7. The assessor, two thousand five hundred dollars per annum.
8. The district attorney, one thousand eight hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, one thousand five hundred dollars per annum, which shall be in full for all services required of him by the superior court or the board of supervisors; provided, that he shall be entitled to receive from the county his actual expenses incurred in the performance of any order of the court or the board of supervisors; provided further, that whenever the surveyor is directed by the board of supervisors to plat, trace or otherwise prepare maps, plats or block-books for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, seven hundred and fifty dollars per annum, which shall be in full for all services as supervisor and road commissioner for each year. Said salary of seven hundred and fifty dollars shall be payable monthly. [Amendment, Stats. 1905, 365.]

§ 194. In counties of the thirty-seventh class, the county officers shall receive as compensation for their services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, twenty-five hundred dollars per annum.
2. The sheriff, four thousand dollars per annum, and one jailer at a salary of nine hundred dollars per annum.
3. The recorder, eighteen hundred dollars per annum.
4. The auditor, fifteen hundred dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, two thousand dollars per annum, which shall be in full for all services at tax collector and as license collector.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, eighteen hundred dollars per annum.
9. The coroner, such fees as are now or may hereafter be provided by law.
10. The public administrator, such fees as are now or may hereafter be provided by law.
11. The superintendent of schools, fifteen hundred dollars per annum.
12. The surveyor, such fees as are now or may hereafter be provided by law.
13. Each supervisor shall receive for compensation five dollars per day for all services performed as supervisor and member of the board of equalization, not to exceed the sum of four hundred dollars per annum; also, three dollars

per day for each day actually engaged in performing the duties of road commissioner, not to exceed three hundred dollars per annum. The supervisors of counties of this class shall be elected from their respective supervisorial districts at the next general election as follows, to wit: The term of office of the supervisors elected from the first and third supervisorial districts shall expire in two years from such general election and the term of office of the supervisors elected from the second, fourth, and fifth supervisorial districts shall terminate in four years from such general election.

14. In counties of this class, the township officers shall receive the following compensation, to wit: In townships having a population of four thousand, justices of the peace shall receive a monthly salary of seventy-five dollars; and constables a monthly salary of seventy-five dollars. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; they may also retain for their own use all other fees, except those in criminal cases, as are now or may hereafter be provided by law. In townships having a population of less than four thousand, each justice of the peace and each constable shall receive as compensation for his services such fees as are now, or may hereafter be, provided by law. [Amendment, Stats. 1905, 308.]

§ 195. In counties of the thirty-eighth (38) class (Stanislaus) the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand seven hundred dollars per annum; and provided that in each year when a new registration is required he shall receive in addition to his salary the sum of ten (10) cents for each elector registered, which amount shall be allowed by the board of supervisors at the close of registration preceding a general election, and paid from the general fund of the county.

2. The sheriff, five thousand dollars per annum, and fees, commissions, and mileage for the service of papers or process coming from courts other than those of his own county.

3. The recorder, one thousand six hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall exceed two hundred and fifty dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, one half of all fees in excess of two hundred and fifty dollars in any month so collected. But the amount of fees thus received by the recorder for his own use, plus his salary, shall not exceed the sum of three thousand dollars in any one year.

4. The auditor, one thousand six hundred dollars per annum.

5. The treasurer, one thousand six hundred dollars per annum, and the fees and commissions now or hereafter allowed by law.

6. The tax collector, one thousand dollars per annum, and the fees and commissions now or hereafter allowed by law.

7. The assessor, two thousand eight hundred dollars per annum, and the fees and commissions now or hereafter allowed by law. The assessor shall also be allowed the following deputies, viz.: One deputy for each bona fide

increase of one hundred real estate statements made for assessment purposes over and above two thousand five hundred of such statements, and not to exceed in all six deputies. Each of such deputies shall receive a monthly compensation of one hundred dollars for a period of not to exceed two months in any one year, said compensation to be paid monthly in the same manner as county officers are paid.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, one thousand five hundred dollars per annum. He shall also be allowed his actual traveling expenses when visiting the schools of the county, which expense shall not exceed the sum of five hundred dollars in any one year. He shall receive nothing for his services as a member of the board of education. The superintendent of schools shall be allowed one deputy, to be appointed by the principal, which said deputy shall be allowed a salary of fifty dollars per month, to be paid at the same time and in the same manner as other county officers.

12. The surveyor shall receive one thousand eight hundred dollars per annum, and in addition thereto, actual traveling and other necessary expenses incurred in connection with field-work. He shall have one deputy at a salary of one thousand dollars per annum; said deputy to be appointed by the principal and be paid at the same time and in the same manner as other county officers. It shall be the duty of the surveyor among other things, to make and correct all necessary plats, maps, and block-books for the assessor's office, and all necessary county and road maps, and all necessary plans and specifications for bridge work and county buildings; provided, however, that when in the judgment of the board of supervisors of the county, and the representations of the county surveyor, it is necessary to employ additional assistance for the performance of said work, the board of supervisors shall allow the necessary and actual expense therefor; provided he shall receive nothing for preparing any map or plat necessary to accompany reports made by him on road work, nor for preparing and keeping up the necessary and proper records of his office. He shall at all times be subject to the orders of the board of supervisors.

13. For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population as shown by the federal census of nineteen hundred: Townships having a population of two thousand eight hundred and more shall belong to and be known as townships of the first class; townships having a population of two thousand four hundred and less than two thousand eight hundred shall belong to and be known as townships of the second class; townships having a population of one thousand six hundred and less than two thousand four hundred shall belong to and be known as townships of the third class; townships having a population of eight hundred and less than one thousand six hundred shall belong to and be known as townships of the fourth class; townships having a population of six hundred and fifty and less than eight hundred shall belong to and be known as townships of the fifth class;

townships having a population of less than six hundred and fifty shall belong to and be known as townships of the sixth class; providing, that the board of supervisors of the county may, prior to any general election, consolidate two or more of such townships into one.

13½. Justices of the peace shall receive the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, ninety dollars; in townships of the second class, fifty dollars; in townships of the third class, fifty dollars; in townships of the fourth class, forty dollars; in townships of the fifth and sixth class, twenty dollars. In addition to the monthly salaries herein allowed, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions; and justices of the first, second and third class shall be allowed their office rent, not to exceed the sum of five dollars each, for any one month. Each justice must pay into the county treasury, once a month, all fines collected by him.

14. Constables shall receive the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, ninety dollars; in townships of the second class, eighty dollars; in townships of the third class, eighty dollars; in townships of the fourth class, fifty dollars; in townships of the fifth and sixth class, thirty dollars. In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions; and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which expense shall be audited and allowed by the board of supervisors and paid out of the county treasury; provided further, that when any constable is required to go out of his own county to serve a warrant of arrest, or any other paper in a criminal case, he shall be allowed mileage, both going and returning, outside of his own county, at the rate of ten cents per mile.

15. Supervisors, each, the sum of six hundred dollars per annum, and mileage at the rate of ten cents per mile for each mile traveled in going to and from the meeting of the board; provided, that only one mileage at any one session of the board shall be allowed. They shall, from and after the passage of this act, act as road commissioners in their respective districts, and shall thereafter receive for their services as such road commissioners mileage at the rate of twenty cents per mile each, one way, for all distances actually traveled by them in the discharge of their duties as such road commissioners; provided, that such mileage as road commissioner shall not, in any one year, exceed the sum of three hundred dollars for any one of the commissioners.

16. Witnesses in criminal cases shall receive one dollar and fifty cents per day, and ten cents per mile for each mile actually traveled, one way only. The court shall make an order directing the auditor to draw his warrant on the county treasurer for the amount due, and the treasurer shall pay the same. The court may disallow any fee to a witness unnecessarily subpoenaed. [Amendment, Stats. 1905, 366.]

§ 196. In counties of the thirty-ninth class the county officers shall receive as compensation for services required of them by law, by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand dollars per annum.
2. The sheriff, five thousand dollars per annum and fees, commissions and mileage for the service of papers or process coming from courts other than those of his own county.
3. The recorder, one thousand six hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist who shall be appointed by the recorder and paid the salary of fifty dollars per month; said salary to be paid by said county in monthly instalments at the time and in the same manner and out of the same fund as the salary of the recorder is paid; and provided that such recorder shall collect and pay into the county treasury for the use and benefit of the county the fees required to be paid by law so collected; and provided that when the amount of said fees collected shall exceed two hundred dollars in any month, the recorder may receive and retain for his own use, in addition to his own salary, one half of all fees in excess of two hundred dollars in any month so collected. But the amount of fees thus received by the recorder for his own use, plus the salary shall not exceed the sum of two thousand dollars in one year.
4. The auditor, one thousand six hundred dollars per annum.
5. The treasurer, one thousand eight hundred dollars per annum.
6. The tax collector, one thousand five hundred dollars per annum.
7. The assessor, three thousand dollars per annum, and such fees as now or may hereafter be allowed by law. The assessor shall also be allowed the following deputies, viz.: one deputy for each bona fide increase of one hundred real estate statements made for assessment purposes over and above twenty-four hundred of such statements and not to exceed in all five deputies. Each of such deputies shall receive a monthly compensation of one hundred dollars for a period not to exceed two months in any one year, said compensation to be paid monthly in the same manner as county officers are paid. He shall prepare the military roll for which he shall receive five cents for each name thereon; that the assessor shall annually revise the plats in his office and prepare the military roll at his own cost and expense.
8. The district attorney, one thousand eight hundred dollars per annum.
9. The coroner, such fees as are now and may hereafter be allowed by law.
10. The public administrator, such fees as are now and may hereafter be allowed by law.
11. The superintendent of schools, one thousand four hundred dollars per annum, and shall also be allowed the compensation provided by law for services upon the board of education. He shall be allowed his actual traveling expenses when visiting schools of his county, which expense shall not exceed the sum of three hundred dollars in one year. Provided, in counties of this class there shall be and is hereby allowed to the superintendent of schools an assistant who shall be appointed by the superintendent of schools and paid a salary of fifty dollars per month, said salary to be paid by said county in monthly instalments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

12. The surveyor, such fees as are now or may be hereafter allowed by law. Provided the surveyor shall annually revise the plats in the office of the assessor for which he shall receive a sum not to exceed two hundred dollars in any one year.

13. Justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of more than three thousand five hundred, one hundred dollars per month; in townships having a population of less than three thousand five hundred and more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, forty dollars per month. Justices of the peace in counties of this class shall also receive for their own use and benefit such fees as are now or may hereafter be allowed by law in civil cases. They shall also be allowed the actual rent for their offices, not to exceed ten dollars per month.

14. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of more than three thousand five hundred, one hundred dollars per month; in townships having a population of less than three thousand five hundred and more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, forty dollars per month. Constables shall also receive for their own use and benefit such fees as are now or hereafter may be allowed by law in civil cases. They shall also be allowed their actual expenses in conveying prisoners from the place of arrest to the court, and in case of conviction, from court to the county jail.

15. Supervisors, each six hundred dollars per annum for all services performed by them as supervisors and members of the board of equalization and road commissioners, including mileage, provided, that each supervisor shall receive ten cents for each mile traveled by the ordinary route in going from his residence to the county seat and returning once during each meeting. Each supervisor shall be allowed his actual traveling expenses while supervising the roads of his district, not exceeding twenty dollars in any one month. [Amendment, Stats. 1905, 338.]

§ 197. In counties of the fortieth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries and fees, to wit:

1. The county clerk, fifteen hundred dollars per annum.
2. The sheriff, three thousand dollars per annum, and all mileage for the service of papers issued out of any court outside of his county.
3. The recorder, twenty-one hundred dollars per annum.
4. The auditor, nine hundred dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, five hundred dollars per annum, and ten per centum on all licenses collected by him as license collector.
7. The assessor, three thousand five hundred dollars per annum.
8. The district attorney, fifteen hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now, or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now, or may be hereafter allowed by law.

13. Each justice of the peace, the following fees: In civil actions before him, for all services required to be performed by him before trial, two dollars.

For a trial, and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment, four dollars.

In all cases where judgment is rendered by default or confession, for all services from the filing of the complaint to and including the entry of judgment, three dollars.

For issuing a writ of attachment, to include all affidavits, taking and approving bond, and all oaths and certificates necessary thereto, three dollars.

For all services and proceedings in a criminal action or proceeding whether on examination or trial, three dollars; provided, that if the defendant plead guilty, only two dollars shall be allowed.

For taking bail, after commitment by another magistrate, only fifty cents.

For making transcript of docket, making up and transmitting papers on appeal, including the certificate to the same, two dollars.

For copies of docket or papers in his office, per folio, twenty cents.

For issuing a search warrant, to be paid by the party demanding the same, one dollar.

For celebrating a marriage, and returning the certificate to the recorder, three dollars.

For docketing a judgment or any instrument, for the first name fifty cents; for each additional name twenty-five cents.

For taking depositions, per folio, twenty cents.

For administering an oath, twenty-five cents, and certificate to same, twenty-five cents; for each certificate twenty-five cents.

For issuing a commission to take testimony, seventy-five cents.

For all services connected with the posting of estrays, including the transcript for the recorder, three dollars.

For issuing an execution and entering satisfaction of the judgment, fifty cents.

In all cases before justices of the peace where the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the manuscript and papers, shall receive three dollars; and the justice before whom the trial shall take place, shall receive the same fees as if the action had been commenced before him.

14. Each constable shall receive the following fees: For serving all summons in civil cases, for each defendant, including the copy required by law, one dollar.

For summoning a jury of twelve or less before a justice, one dollar and fifty cents; for each additional juror above twelve, twenty-five cents.

For taking any bond required by law to be taken, fifty cents.

For summoning each witness, twenty-five cents.

For serving an attachment or levying an execution on the property of a defendant, one dollar and fifty cents.

For summoning and swearing a jury to try the rights of property, and making a verdict, two dollars.

For receiving and taking care of property on execution, order or attachment, his actual necessary expenses, to be allowed by the justice who issued the order, attachment or execution upon the affidavit of the constable that the charges are correct and that the expenses were necessarily incurred.

For collecting all sums on execution, three per centum, to be charged against the defendant named in the execution.

For serving a warrant or order for the delivery of personal property, or making an arrest in a civil case, one dollar and fifty cents.

For making each arrest in criminal cases, two dollars.

For every mile necessarily traveled, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to prison, twenty-five cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the most distant, if they live in the same direction.

For sales of estrays, the same fees as for sales on execution.

For the transportation of prisoners to the county jail the actual necessary expenses.

For attending a justice's court and taking charge of a jury and prisoner when required two dollars for each day of actual attendance upon the court.

For all other services the same fees as are allowed sheriffs for like services.

15. Each member of the board of supervisors four hundred dollars per annum and twenty cents per mile for traveling from his residence to the county seat, also his actual necessary expenses while acting as ex officio road overseer or commissioner not to exceed three hundred dollars in any one year. [Amendment, 1905, 544. **In effect** January 1, 1907.]

§ 198. In counties of the forty-first class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.
2. The sheriff, four thousand dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.
3. The recorder, one thousand five hundred dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, one thousand five hundred dollars per annum.
6. The tax collector, one thousand dollars per annum, which shall be in full for all services as tax collector and as license collector.
7. The assessor, two thousand five hundred dollars per annum.
8. The district attorney, two thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand two hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. In counties of this class the township officers shall receive the following compensation, to wit:

In townships having a population of three thousand or more, justices of the peace and constables shall each receive a monthly salary of sixty dollars per month.

In townships having a population of fifteen hundred and less than three thousand, the justice of the peace and constables shall each receive a monthly salary of forty-five dollars per month.

In townships having a population of eight hundred and less than fifteen hundred, the justices of the peace and constables shall each receive a monthly salary of thirty-five dollars per month.

In townships having a population of five hundred and less than eight hundred, the justices of the peace and constables shall each receive a monthly salary of fifteen dollars per month.

In townships having a population of less than five hundred, the justices of the peace and constables shall each receive a monthly salary of five dollars per month.

The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that, in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as they are now or may be hereafter allowed by law, for transporting prisoners to the county jail, the actual expenses of such transportation; and, provided further, that for the purpose of this act, the population of the several townships, shall be ascertained by multiplying the number of registered voters at the last general election by five. But said justices of the peace and constables may retain for their own use, the fees allowed by law in civil cases.

14. Each member of the board of supervisors, five hundred dollars per annum, and his necessary expenses when attending to the business of the county other than the meetings of the board, and twenty cents per mile in going from his residence to the county seat at each meeting of the board; and when serving as road commissioner, three dollars per day, and twenty cents per mile one way for all actual distances traveled by him in the performance of his duties as such commissioner.

Subdivision thirteen of this section shall take effect immediately. [Amendment, Stats. 1905, 441.]

§ 199. In counties of the forty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand four hundred dollars per annum.

2. The sheriff, four thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.

3. The recorder, eighteen hundred dollars per annum.

4. The auditor, one thousand eight hundred dollars per annum.

5. The treasurer, one thousand six hundred dollars per annum.
6. The tax collector, one thousand two hundred dollars per annum.
7. The assessor, three thousand dollars per annum.
8. The district attorney, two thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, fifteen hundred dollars per annum, which shall be in full for all services required of him by the superior court or the board of supervisors, and as ex officio county recorder; provided, that he shall be entitled to receive from the county his actual and necessary traveling expenses, incurred in the performance of any order of the court or board of supervisors; for all other services the fees allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month. In addition to the compensation received in criminal cases each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

14. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Each supervisor, one hundred dollars per month, and mileage at the rate of twenty cents per mile for traveling from residence to county seat to attend upon a session of the board. The salary herein allowed shall be in full for all services, including duties as road commissioner.

16. The official reporter, such fees as are now provided by law.

17. This act, and the amendments contained in the foregoing section relating to counties of the forty-second class, shall take effect immediately as to the compensation of justices of the peace, constables, and supervisors. [Amendment approved March 23, 1901, Stats. 1901, 779. In effect partly immediately and partly 12 m. on the first Monday after January 1, 1903.]

§ 200. In counties of the forty-third class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand eight hundred dollars per annum.
2. The sheriff, three thousand five hundred dollars per annum. The sheriff shall also receive for his own use and benefit all fees, commissions and mileage, in all civil cases within his county, and all fees, commissions and mileage for service of any papers issued by any court outside of his county.
3. The recorder, twelve hundred dollars per annum.
4. The auditor, six hundred dollars per annum.
5. The treasurer, one thousand two hundred dollars per annum.
6. The tax collector, seven hundred dollars per annum.
7. The assessor, twenty-four hundred dollars per annum.
8. The district attorney, one thousand five hundred dollars per annum.
9. The coroner, such fees as are now or may hereafter be allowed by law.
10. The public administrator, such fees as are now or may hereafter be allowed by law.
11. The superintendent of schools, one thousand six hundred dollars per annum.
12. The surveyor, such fees as are now or may hereafter be allowed by law.
13. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than twenty-five hundred, seventy dollars per month; in townships having a population of less than twenty-five hundred and more than one thousand, twenty dollars per month; in townships having a population of less than one thousand and more than six hundred, fifteen dollars per month; in townships having a population of less than six hundred, ten dollars per month. In addition to the compensation received in criminal cases, each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.
14. Constables shall receive the following monthly salaries to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than twenty-five hundred, thirty-five dollars per month; in townships having a population of less than twenty-five hundred and more than one thousand, fifteen dollars per month; in townships having a population of less than one thousand, ten dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.
15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat.
16. Each member of the county board of education, including the secretary, shall receive one hundred and fifty dollars per annum as compensation for his

services on the board of education, and mileage at the rate of twenty cents per mile, one way, from his residence to the place of meeting of said board. Said compensation of said members and of said secretary shall be paid monthly in the same manner and out of the same fund as the salaries of other county officers are paid. Claims for such mileage shall be presented to and allowed by the board of supervisors before payment. The compensation of the members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code.

17. For the purposes of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors, by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment, Stats. 1905, 363.]

§ 201. In counties of the forty-fourth class, the county officers shall receive, as compensation for the services required by [of] them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, eighteen hundred dollars per annum.
2. The sheriff, forty-two hundred dollars per annum, and such mileage as is allowed by law, and the fees, mileage, or commissions for the service of all papers whatever issued by any court outside of his county, and all mileage for the service of papers in civil cases in his own county, and the actual expenses incurred in criminal cases, and fifteen cents for each meal for feeding prisoners confined in the county jail.
3. The recorder, one thousand five hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall amount to more than one hundred and twenty-five dollars in any one month, the recorder may receive and retain for his own use, in addition to his salary, all fees in excess of one hundred and twenty-five dollars, and not exceeding one hundred and seventy-five dollars, in any month so collected; so that the amount of fees thus received by the recorder for his own use, plus the salary, shall not exceed the sum of one hundred and seventy-five dollars in any one month.
4. The auditor, fifteen hundred dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, twelve hundred dollars per annum.
7. The assessor, twenty-five hundred dollars per annum.
8. The district attorney, eighteen hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, ten hundred dollars per annum.
12. The surveyor, ten dollars per day when engaged in county work. He shall also receive his actual expenses when at work in the field.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each member of the board of supervisors, six hundred dollars per annum,

and twenty-five cents per mile while traveling from their respective residence to the county seat, not more than once each month.

16. In counties of this class the official reporter of the superior court shall receive such fees as are now and may hereafter be allowed by law.

17. In counties of this class the board of supervisors may appoint a horticultural commissioner, who shall have expert knowledge of the duties pertaining to the position, who shall serve at the pleasure of the board, and who shall be paid a salary of not to exceed seventy-five dollars per month. [Amendment, Stats. 1905, 356.]

§ 202. In counties of the forty-fifth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, thirteen hundred dollars per annum.
2. The sheriff, twenty-four hundred dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county, and his actual and necessary traveling expenses while executing a warrant outside of his county issued by a magistrate or court within his county.
3. The recorder, thirteen hundred dollars per annum.
4. The auditor, seven hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, five hundred dollars per annum.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, one thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, eight hundred dollars per annum, and actual and necessary traveling expenses when visiting schools of his county.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each member of the board of supervisors, four dollars a day when the board is in session, and ten cents a mile, in going only, for traveling from his residence to the county seat, and when serving as road commissioner three dollars per day, and actual and necessary expenses; provided, he shall not in any one year receive more than three hundred dollars as supervisor, exclusive of mileage, nor more than two hundred dollars as road commissioner, exclusive of traveling expenses.
16. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of ten cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such service and mileage shall be presented to

the board of supervisors and shall be allowed at the rate above named, and in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code. [Amendment, Stats. 1901, 782.]

§ 203. In counties of the forty-sixth class the county officers shall receive, as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. The county clerk, fifteen hundred dollars per annum.
2. The sheriff, thirty-five hundred dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.
3. The recorder, one thousand dollars per annum.
4. The auditor, five hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, five hundred dollars per annum, which shall be in full for all services as tax collector and as license collector.
7. The assessor, eighteen hundred dollars per annum.
8. The district attorney, fifteen hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, twelve hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, the fees which now are or hereafter may be allowed by law; provided, that where the trial of any case shall occupy more than one day, and not less than three hours of such day, the justice shall also be allowed three dollars for each additional day consumed in such trial.
14. Constables, the fees which now are or hereafter may be allowed by law; provided, that the constable shall also be allowed at the rate of two dollars and fifty cents per day for each day of actual attendance on the trial of cases in the justice's court, where such attendance is pursuant to the order of the justice thereof.
15. Each member of the board of supervisors, five dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat; and when serving as road commissioner three dollars per day and mileage at the rate of twenty cents per mile one way for all actual distances traveled by him in the performance of his duties as such road commissioner. But he shall not in any one year receive more than three hundred and fifty dollars as supervisor or more than two hundred and fifty dollars as road commissioner, exclusive of mileage. When traveling by order of the board upon county business, each supervisor shall be allowed his actual itemized expenses. [Amendment, Stats. 1905, 552.]

§ 204. In counties of the forty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twenty-seven hundred dollars per annum.

2. The sheriff, three thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county; also, his actual and necessary traveling expenses in the execution of a warrant outside of his county issued by a court or magistrate of his county.

3. The recorder, fifteen hundred dollars per annum.

4. The auditor, twelve hundred dollars per annum.

5. The treasurer, twelve hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, twenty-five hundred dollars per annum.

8. The district attorney, sixteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, sixteen hundred dollars per annum, and traveling expenses while visiting schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, twenty dollars per month. In addition to the compensation received in criminal cases, each justice of the peace shall receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

14. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, twenty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Each supervisor, five dollars per day while attending sessions of the board and while engaged in the performance of the duties of road commissioner, and mileage at the rate of twenty cents per mile for traveling from residence to county seat in attendance upon a regular session of the board.

16. Official reporters, same as now provided by law.

This act, so far as it relates to counties of the forty-seventh class, shall take effect immediately as to the offices of justices of the peace and constables, but shall not affect the compensation of other officers during the present term of office. [Amendment, Stats. 1901, 784.]

§ 205. The county officers [of counties of forty-eighth class] shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars per annum.
2. The sheriff, twenty-five hundred dollars per annum.
3. The recorder, one thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist, who shall be appointed by the recorder, and paid the salary of fifty dollars per month; said salary to be paid by said county in monthly instalments, at the time and in the same manner, and out of the same fund as the salary of the recorder is paid. This section shall take effect immediately in so far as it relates to the salary of said copyist.

4. The auditor, six hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, one thousand dollars per annum, and ten per centum on all licenses collected by him as license collector.

7. The assessor, one thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy, to be appointed by him, who shall receive the salary of seventy-five dollars per month for not exceeding four months in any calendar year, said salary to be paid by said county in monthly instalments, at the same time and in the same manner, and out of the same fund as the salary of the assessor is paid. This section shall take effect immediately in so far as it relates to the salary of said deputy.

8. The district attorney, one thousand two hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of this county.

12. The surveyor, such fees as are now or may hereafter be allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law.

15. Each supervisor, six dollars per day when the board is in a session, not to exceed three hundred dollars per year, exclusive of mileage, and twenty-five cents per mile for traveling one way only from his residence to the county seat at each sitting of the board; and his necessary expenses while supervising the roads of his district, or attending to the business of the county, other than the meetings of the board, not to exceed the sum of four hundred and sixty dollars per annum. This section shall take effect immediately in so far as it relates to the necessary expenses of supervisors while supervising their roads, or while engaged in attending to the business of the county other than the meetings of the board.

16. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, and at coroner's inquests, a per diem of ten dollars, and for transcription of said notes

when required during the progress of a trial, he shall receive the sum of twenty-five cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after the conclusion of trial, then he shall receive the sum of ten cents per folio for original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside the county seat. [Amendment, Stats. 1905, 333.]

§ 206. In counties of the forty-ninth class, the county officers shall receive as compensation for their services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twelve hundred dollars per annum, except in the years where a general election is held, and in such years he shall receive fifteen hundred dollars per annum.

2. The sheriff, thirty-eight hundred dollars per annum.

3. The recorder, twelve hundred dollars per annum, provided that such recorder shall collect and pay into the county treasury for the use and benefit of the county, the fees required by law to be so collected; and, provided, that when the amount of said fees collected shall exceed one hundred dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, one half of all fees in excess of one hundred dollars in any month, so collected; and, provided, that the recorder may retain for his own use, all fees collected for filing or recording proofs of labor or notices of location of mining claims.

4. The auditor six hundred dollars per annum.

5. The treasurer twelve hundred dollars per annum.

6. The tax collector one thousand dollars per annum and ten per centum on all licenses collected by him.

7. The assessor one thousand six hundred and fifty dollars per annum.

8. The district attorney one thousand four hundred dollars per annum.

9. The coroner such fees as are now or may be hereafter allowed by law.

10. The public administrator such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred dollars per annum and actual traveling expenses while visiting the schools of the county.

12. The surveyor such fees as are now or may be hereafter allowed by law.

13. Justices of the peace such fees as are now or may be hereafter allowed by law.

14. Constables such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors five dollars per day for each day's actual service while the board is in session and ten cents per mile for each mile necessarily traveled to and from the place of meeting; also three dollars per day for each day's service while serving as road commissioner. Such compensation, as road commissioner, not to exceed three hundred dollars per annum.

16. Grand jurors and jurors in the superior court in criminal cases shall be paid three dollars per day for each day's attendance and for each mile actually traveled in going only, while acting as such juror, fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage, and the treasurer shall pay the same.

The provisions of section two hundred and six of this act, so far as the same relates to fees of jurors, shall take effect on August one, nineteen hundred and one. [Amendment, Stats. 1905, 373.]

§ 207. In counties of the fiftieth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand dollars per annum, except in the years when a general election is held, and in such years, he shall receive two thousand three hundred dollars per annum.

2. The sheriff four thousand dollars per annum.

3. The recorder one thousand eight hundred dollars per annum.

4. The auditor four hundred dollars per annum.

5. The treasurer one thousand six hundred dollars per annum.

6. The tax collector seven hundred fifty dollars per annum.

7. The assessor one thousand eight hundred dollars per annum.

8. The district attorney one thousand five hundred dollars per annum.

9. The coroner such fees as are now or may hereafter be allowed by law.

10. The public administrator such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools eight hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. The surveyor such fees as are now or may hereafter be allowed by law.

13. Justices of the peace such fees as are now or may hereafter be allowed by law.

14. Constables such fees as are now or may hereafter be allowed by law.

15. Each supervisor eight dollars per day while the board is in session, and mileage from residence to the county seat at each sitting of the board of twenty cents per mile; also twenty cents per mile for each mile actually and necessarily traveled in discharging the duties of road commissioner, but he shall not in any one year receive more than three hundred dollars for per diem as supervisor, and he shall not in any one year receive more than three hundred dollars as road commissioner.

16. The license collector ten per centum of all licenses collected by him.

This act so far as it relates to counties of this class shall not affect the compensation of officers during the present [term] of office, except as herein otherwise specially provided. [Amendment, Stats. 1905, 325.]

§ 208. In counties of the fifty-first class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars per annum.

2. The sheriff, three thousand dollars per annum.

3. The recorder, one thousand dollars per annum; provided, that in counties

of this class there shall be and is hereby allowed to the recorder a copyist, who shall be appointed by the recorder, and paid the salary of fifty dollars per month; said salary to be paid by said county in monthly instalments, at the time and in the same manner, and out of the same fund as the salary of the recorder is paid. This section shall take effect immediately in so far as it relates to the salary of said copyist.

4. The auditor, five hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, five hundred dollars per annum, and ten per centum on all licenses collected by him as license collector.

7. The assessor, one thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy, to be appointed by him, who shall receive the salary of seventy-five dollars per month for not exceeding four months in any calendar year, said salary to be paid by said county in monthly instalments, at the same time and in the same manner, and out of the same fund as the salary of the assessor is paid. This section shall take effect immediately in so far as it relates to the salary of said deputy.

8. The district attorney, one thousand two hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, fifteen hundred dollars (\$1500) per annum, and actual traveling expenses when visiting the schools of this county.

12. The surveyor, such fees as are now or may hereafter be allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law.

15. Each supervisor, six dollars per day when the board is in a session, not to exceed three hundred dollars per year, exclusive of mileage, and twenty-five cents per mile for traveling one way only from his residence to the county seat at each sitting of the board; and his necessary expenses while supervising the roads of his district, or attending to the business of the county, other than the meetings of the board, not to exceed the sum of four hundred and sixty dollars per annum. This section shall take effect immediately in so far as it relates to the necessary expenses of supervisors while supervising their roads, or while engaged in attending to the business of the county other than the meetings of the board.

16. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, and at coroner's inquests, a per diem of ten dollars, and for transcription of said notes when required during the progress of a trial, he shall receive the sum of twenty-five cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after conclusion of trial, then he shall receive the sum of ten cents per folio for original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the

county, and paid out of the county treasury; and in civil cases to be paid by the party ordering the same, or when ordered by the judge, or either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside the county seat. [Amendment, Stats. 1905, 320.]

§ 209. In counties of the fifty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, fifteen hundred dollars per annum.
2. The sheriff, three thousand dollars per annum.
3. The recorder, eight hundred dollars per annum.
4. The auditor, six hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, one thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, seven hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each member of the board of supervisors, two hundred and fifty dollars per annum; mileage from residence to county seat at each sitting of the board, twenty cents per mile. [Amendment, Stats. 1901, 790. **In effect** January 1, 1903.]

§ 210. In counties of the fifty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, sixteen hundred dollars per annum.
2. The sheriff five thousand [dollars] per annum and mileage for service of any and all processes required by law to be served by him, at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty, and for service of all processes issued from all courts outside of his county.
3. The recorder, eight hundred dollars per annum.
4. The auditor, two hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, nine hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, four hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered, as hereinafter provided. In townships having a population of three thousand or more, eighty-five dollars per month, which said salary shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases, and all such fees as are allowed by law in civil cases shall be paid by said justices of the peace into the county treasury, as the fees of county officers are paid in. In townships having a population of not less than two thousand and under, three thousand, thirty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law. In townships having a population of not less than one thousand and under, two thousand, twenty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law. In townships having a population of less than one thousand, fifteen dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are [now] or may be hereafter allowed by law. The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers, aforesaid.

14. Constable, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, six dollars per day when board is in session; thirty cents per mile, one way. Three dollars per day when actually serving as road commissioner, not to exceed three hundred dollars.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a salary of ten dollars per diem during employment, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers, and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation by transcription in criminal cases to be audited and allowed for the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. [Amendment, Stats. 1905, 439.]

§ 211. In counties of the fifty-fourth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand three hundred dollars per annum; provided, that in years when a great register is ordered the county clerk shall receive in addition to his regular salary the sum of four hundred dollars for such services.

2. The sheriff, two thousand five hundred dollars per annum, and twenty-five cents mileage, in going only.

3. The recorder, four hundred dollars per annum; provided, that the recorder may retain to his own use all fees paid him for recording notices of location of mining claims and affidavits of annual expenditures upon mining claims, made under the laws of congress; and further provided, that all acts of the recorder of counties of this class in retaining to his own use any fees for recording notices of location of mining claims and affidavits of annual expenditures upon mining claims, made under the laws of Congress, whether done as mining recorder or as recorder, are hereby validated and declared legal, and that such recorder may continue to retain to his own use such fees, and this act in so far as it relates to the matter enumerated in the last preceding division thereof shall take effect immediately upon its passage.

4. The auditor, three hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, three hundred and fifty dollars per annum.

7. The assessor, one thousand six hundred dollars per annum.

8. The district attorney, one thousand dollars per annum, and his necessary traveling expenses, to be allowed by the board of supervisors.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred and twenty-five dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, three hundred and fifty dollars per annum, and twenty cents per mile for traveling to and from his residence to the county seat at each session.

When traveling by order of the board upon county business, each supervisor shall be allowed his actual itemized expenses. For all services as road commissioner, each supervisor shall receive three dollars per day, but he shall not in any one year receive more than five hundred dollars as supervisor.

16. The license collector, such compensation as the board of supervisors shall fix. [Amendment, Stats. 1905, 523.]

§ 212. In counties of the fifty-fifth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, nine hundred dollars per annum.

2. The sheriff, twelve hundred dollars per annum.

3. The recorder, six hundred dollars per annum.

4. The auditor, three hundred dollars per annum.

5. The treasurer, nine hundred dollars per annum.

6. The tax collector, nine hundred dollars per annum.

7. The assessor, six hundred dollars per annum.

8. The district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.
 10. The public administrator, such fees as are now or may be hereafter allowed by law.
 11. The superintendent of schools, four hundred dollars per annum.
 12. The surveyor, such fees as are now or may be hereafter allowed by law.
 13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
 14. Constables, such fees as are now or may be hereafter allowed by law.
 15. Each member of the board of supervisors, three hundred dollars per annum and twenty cents per mile in traveling from his residence to the county seat, going only; provided, that only one mileage shall be allowed for any regular session of the board.
 16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts and at coroner's inquests, a monthly salary not to exceed fifty dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.
- § 213. In counties of the fifty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:
1. The county clerk, twelve hundred dollars per annum.
 2. The sheriff, twenty-six hundred dollars per annum.
 3. The recorder, six hundred dollars per annum.
 4. The auditor, two hundred dollars per annum.
 5. The treasurer, one thousand dollars per annum.
 6. The tax collector, five hundred dollars per annum.
 7. The assessor, twelve hundred dollars per annum.
 8. The district attorney, nine hundred dollars per annum.
 9. The coroner, such fees as are now or may be hereafter allowed by law.
 10. The public administrator, such fees as are now or may be hereafter allowed by law.
 11. The superintendent of schools, four hundred dollars per annum.
 12. The surveyor, such fees as are now or may be hereafter allowed by law.
 13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
 14. Constables, such fees as are now or may be hereafter allowed by law.
 15. Each member of the board of supervisors, six dollars per day during session, and thirty cents per mile one way to board meeting; three dollars per day (no mileage) as road commissioner when actually engaged in road business.
 16. In counties of this class the official reporter of the superior court shall

receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a per diem of eight dollars; and for transcription of said notes, when required during the progress of the trial, he shall receive the sum of twenty cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after conclusion of trial, then he shall receive the sum of ten cents per folio for original, and three cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

§ 214. In counties of the fifty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, five hundred dollars per annum.
2. The sheriff, five hundred dollars per annum.
3. The recorder, three hundred dollars per annum.
4. The auditor, two hundred dollars per annum.
5. The treasurer, three hundred dollars per annum.
6. The tax collector, three hundred dollars per annum.
7. The assessor, three hundred dollars per annum.
8. The district attorney, three hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, five dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat, going only, and only one mileage shall be allowed for any regular session of the board; and, when serving as road commissioner, three dollars per day. Such per diem not to exceed the total sum of fifty dollars per annum.

Provided, however, that five per centum only shall be allowed the sheriff or tax collector as fees for collecting licenses in counties of this class.

§ 214½. Public welfare and present necessity, in the counties of the classes below named, requiring that in counties of the first, second, third, and fourth classes in this state there should be an official matron of the several county jails therein, to have the powers and to discharge the duties herein specified, the office of matron of the county jail, in and for each of the counties of the classes above named, is hereby created, and the duties and powers of the matron of such several county jails shall be as follows: She shall have free access at all reasonable times to the immediate presence of all female prisoners in the county jail of which she is the matron, including the right of personal visitation and conversation with them; and, in all cases of searching the person of

female prisoners in such jail, the matron exclusively shall make such search; and the matron shall by example, advice, and admonition employ her best abilities to secure and promote the health, welfare, and reformation of all such prisoners.

The term of office of such matron shall be two years from her appointment and qualification and until her successor is appointed and qualified. The sheriff of each county (of the classes above named) is hereby authorized and empowered to appoint, and to provide for the payment of the compensation of, a matron of the county jail of the county of which they are such board, and to specify the conditions, and fix the amount of the matron's official bond, to be approved by such board. The monthly compensation of such matron in the several counties of the classes above mentioned (regulated hereby in proportion to the duties to be discharged) shall be as follows, payable monthly: In counties of the first class, seventy-five dollars; in counties of the second class, fifty dollars; in counties of the third class, forty dollars; in counties of the fourth class, thirty-five dollars, and in counties of the fifth class, thirty dollars. To further the carrying into effect of the authority above conferred and in furtherance of the discharge of the duties of the matrons of such county jails, it is hereby enacted that no officer, deputy, jailer, keeper, guard or person having charge or control of any such county jail shall refuse the duly appointed and qualified matron thereof free access at all reasonable times to the immediate presence of all female prisoners therein, including the right of visitation and conversation with them, or in such jail allow the searching of the person, in the case of a female prisoner, to be made except by the matron of such jail, or obstruct the performance by the matron of her official duties in such jail as those duties may be specified under the provisions of this act or of law. [New section, Stats. 1901, 681.]

§ 215. The salaries and fees provided in this act shall be in full compensation for all services of every kind and description rendered by the officers herein named either as officers or ex officio officers, their deputies and assistants, unless in this act otherwise provided, and all deputies employed shall be paid by their principals out of the salaries hereinbefore provided, unless in this act otherwise provided; provided, and except that where an assistant district attorney has been heretofore appointed in any county, either under the provisions of subdivision thirty-six of section twenty-five, or under any other provisions of an act entitled "An act to establish a uniform system of county and township government," approved March twenty-fourth, eighteen hundred and ninety-three, and such assistant is continued by the provisions of this act, either as an assistant or deputy in such county, then such deputy or assistant shall be paid out of the funds of such county, as heretofore or herein provided; the assessor shall be entitled to receive and retain for his own use six per centum on personal property tax collected by him, as authorized by section thirty-eight hundred and twenty of the Political Code, and fifteen per centum of all amounts collected by him for poll-taxes, and road poll-taxes, and also five dollars per hundred names of persons returned by him as subject to military duty, as provided in section nineteen hundred and one of the Political Code, and the license collector shall be entitled to receive and retain for his own use ten per centum on all licenses collected by him, except where otherwise provided in this act; provided, how-

ever, that in counties and cities and counties of the first, second and third class, the assessor shall receive no commission for the collection of taxes on personal property, nor shall such assessor receive any compensation for making out military roll of persons returned by him as subject to military duty as provided by section nineteen hundred and one of the Political Code; nor shall the license collector in cities and counties of the first class and counties of the second class receive any commission on licenses collected by him except the commissions on state liquor licenses; provided, that the treasurer shall receive and retain for his own use the commissions on all inheritance and transfer taxes collected by him, and provided further, that whenever the treasurer of any county shall employ a special attorney for the collection of such taxes said attorney shall be paid out of the commissions and fees allowed by law for the collection of such taxes; provided that in any county where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred and ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county, by reason of such increase, one additional deputy, to be appointed by the sheriff, at a salary not exceeding twelve hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid; and also there must be and is hereby allowed to the county clerk of such county, one additional deputy to act as court-room clerk, for each judge so appointed or elected, at a salary not exceeding twelve hundred dollars per annum for each of said deputies, to be paid at the same time and in the same manner as other county officers are paid. The board of supervisors shall allow to the sheriff his necessary expenses for pursuing criminals, or transacting any criminal business, and for boarding prisoners in the county jail; provided that the board of supervisors shall fix a reasonable price at which such prisoners shall be boarded, if not otherwise provided for in this act; provided, further, that the sheriff shall be entitled to receive and retain for his own use, five dollars per diem for conveying prisoners to and from the state prisons, and for conveying persons to and from the insane asylums, or other state institutions not otherwise provided for by law; also, all expenses necessarily incurred in conveying insane persons to and from the insane asylums, and in conveying persons to and from the state prisons, or other state institutions, which per diem and expenses shall be allowed by the board of examiners, collected from the state. The court shall also allow the sheriff his necessary expenses in keeping and preserving property seized on attachment or executions, to be paid out of the fees collected in the action. The sheriff may retain for his own use the mileage for service of papers or process issued by any court of the state.

Provided further that the county treasurers of the several counties of this state, where their necessary expense incurred in the making of the state settlements provided for by section thirty-eight hundred and sixty-six Political Code, shall exceed the maximum amount of mileage allowed them by section thirty-eight hundred and seventy-six of the Political Code, shall be allowed out of the county treasury of their respective counties, the amount of such excess, which shall be paid as other demands against the county are paid. [Amendment, Stats. 1905, 582.]

§ 216. All salaried officers of the several counties of this state shall charge and collect for the use of their respective counties, and pay into the county

treasury, on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county.

§ 217. Each of the officers authorized to receive fees under the provisions of this act must keep a fee-book, open to the public inspection during office hours, in which must be entered, at once and in detail, all fees or compensation, of whatever nature, kind, or description, collected or chargeable. On the first Monday of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all fee-books kept by him to the county auditor.

§ 218. The fees and compensation collected and chargeable for the county in each month shall be paid to the county treasurer on the first Monday in the following month, and must be accompanied by a statement of the aggregate amount thereof, as shown by the fee-book, duly verified by the officer making such payment. The affidavit shall be in the following form: "I, A. B., county clerk (or other officer, as the case may be), do swear that the fee-book in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies, and assistants, for the month of —, A. D. —, and that said fee-book shows a full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor to my knowledge or belief, any of my deputies or assistants have rendered any official service, except for the county, which is not fully set out in said fee-book, and that the foregoing statement thereof is true and correct."

The treasurer shall file and preserve in his office said statements and affidavit.

§ 219. For the purpose of paying the salaries provided for in this act, all fees directed to be paid into the county treasury shall be set apart therein as a separate fund, to be known as the salary fund, to be applied to the payment of said salaries. Should the amount received from such source be insufficient, it shall be the duty of the county treasurer from time to time to transfer to said fund from the general fund of the county such sums as may be necessary to pay said salaries as they become due.

§ 220. The salaries of such officers named in this act as are entitled to salaries shall be paid monthly out of the county treasury; and it shall be the duty of the auditor, on the first Monday of each and every month, to draw his warrant upon the county treasurer in favor of each of said officers for the amount of salary due him under the provisions of this act for the preceding month; except that one half of the annual salary of the assessor shall be paid to him in equal monthly instalments for the months of March, April, May, and June, and one half in equal monthly instalments for the remaining eight months of the year. The treasurer shall pay said warrants on presentation out of the salary fund of the county treasury.

§ 221. The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have presented him with the certificate of the county treasurer, showing that he has made the statement and settlement for that month required in this act.

§ 222. The officers mentioned in this act are not in any case, except for the

state or county, to perform any official services, unless upon the prepayment of fees prescribed for such services, except in cases on habeas corpus and for naturalization, and on such payment the officer must perform the services required. For every failure, or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond.

§ 223. Every officer, upon receiving any fees for official duty or service, may be required by the person paying the same to make out, in writing, and deliver to such person a particular account of such fees, specifying for what they, respectively, accrued, and shall receipt the same; and if he refuse or neglect to do so when required, he shall be liable to the party paying the same in treble the amount so paid.

§ 224. It shall be the duty of each justice of the peace to prepare, and keep posted in a conspicuous place in his office, a plain and legible statement of the fees allowed by law to justices of the peace and constables, upon pain of forfeiting, for failure so to do, fifty dollars, to be recovered, with costs, by any person, before any other justice of the peace of the county.

§ 225. The board of supervisors, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, must declare his office vacant.

§ 226. It shall be the duty of all officers in this act named to complete the business of their respective offices to the time of the expiration of their respective terms; and in case any officer at the close of his term shall leave to his successor official labor to be performed, which it was his duty to perform, he shall be liable to pay to his successor the full value for such services.

§ 227. No fee or compensation of any kind must be charged or received by any officer for duties performed or services rendered in proceedings upon habeas corpus or naturalization, nor for administering or certifying the oath of office, nor fees or other compensation shall be paid for service rendered in an affidavit or application relating to the securing of a pension or the payment of a pension voucher, or any matter relating thereto, nor filing nor swearing to any claim or demand against any county in this state.

§ 228. The following are county charges:

1. Charges incurred against the county by virtue of any of the provisions of this act.

2. The traveling and other personal expenses of the district attorney, incurred in criminal cases arising in the county, and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by him in the detection of crime and prosecution of criminal cases, and in civil actions and proceedings and all other matters in which the county is interested.

3. The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail.

4. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases.

5. The accounts of the coroner of the county for such services as are not provided to be paid otherwise.

6. All charges and accounts for services rendered by any justice of the peace

in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law.

7. The necessary expenses incurred in the support of the county hospitals, poorhouses, and the indigent sick and otherwise dependent poor, whose support is chargeable to the county.

8. The contingent expenses necessarily incurred for the use and benefit of the county.

9. Every other sum directed by law to be raised for any county purpose under the direction of the board of supervisors, or declared to be a county charge.

10. The fees of constables in criminal cases allowed by law.

§ 229. When a criminal action is removed before trial, the costs accruing upon such removal and trial shall be a charge against the county in which the indictment or information was found.

§ 230. The clerk of the county to which such action is removed shall certify the amount of costs allowed and certified by the court to the auditor of his county, and such auditor shall audit the same and draw his warrant therefor upon the treasury of the county from which such action was removed; and such auditor shall forward to said treasurer and auditor of the county from which said action was transferred, as aforesaid, a certified copy of the total amount of costs allowed by the court, giving each item as certified to him by the county clerk and the court; and the auditor receiving such certified copy of said costs allowed shall enter the same in his book as a charge against the treasury of his county; and the county treasurer of the county from which said action was removed must, immediately upon presentation, pay said warrant out of the general fund of said county; or, if at the date of presentation there is not sufficient money in the said general fund to pay the same, he must indorse upon said warrant, "Not paid for want of funds," and said warrant must be registered, and shall draw interest at the same rate, and be paid in the same manner, as though it had been drawn by the auditor of the county where the indictment was found.

§ 231. Counties created or organized after the passage and approval of this act shall immediately come under and be governed by its provisions, so far as the same are applicable thereto. When the population of any existing county shall have been reduced, by reason of the creation of any new county from the territory thereof, below the class and rank first assumed hereunder, it shall be the duty of the board of supervisors of such county to designate by order the class to which such county has been reduced by reason thereof, and such county shall thereafter enter the list of such class; provided, that the salary of county officers shall not be affected by reason of such division of the county or order of the board, for the term for which they were elected and qualified. In any newly created county, for the purpose of fixing the salaries and fees of county and township offices, the board of commissioners appointed to organize said new county, and if no commissioners be appointed, then the board of supervisors of said new county, shall classify said new county according to the population classification of this act. In each case the population shall be numerically fixed, and when so fixed shall be certified to the secretary of state by the board fixing the same.

§ 232. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 233. The provisions of sections one hundred and fifty-eight to two hundred and fourteen, inclusive, of this act, so far as they change the compensation of any officer therein named, heretofore paid a fixed salary, or heretofore paid a fixed salary and commissions, and not fees or per diem, shall not affect incumbents, unless otherwise provided in any of said sections.

§ 234. This act, except as otherwise herein provided, shall take effect and be in force sixty days from and after its passage.

See **KERR'S CYC. POL. CODE** § 4080; amendment Stats. 1905, 114, ch. CXVIII; and see *titls. Aplaries; Bee Culture; Ferries*.

STATS. 1883, 290.—§ 2, County San Joaquin vs. Budd, 96 Cal. 47, 51, 30 Pac. Rep. 967; §§ **2, 21**, People vs. Cole, 70 Cal. 59, 60, 11 Pac. Rep. 481; §§ **6, 36**, Smith vs. County Los Angeles, 99 Cal. 628, 630, 34 Pac. Rep. 439; § **7**, Bank vs. Bartlett, 78 Cal. 301, 303, 20 Pac. Rep. 682; § **8**, Burr vs. Board Supervisors, 96 Cal. 210, 213, 31 Pac. Rep. 38; Merriam vs. Board Supervrs., 72 Cal. 517, 519, 14 Pac. Rep. 137; §§ **8, 11, 12**, Lassen County vs. Shinn, 88 Cal. 510, 26 Pac. Rep. 365; §§ **8, 164**, County Orange vs. Harris, 97 Cal. 600, 601, 32 Pac. Rep. 594; § **12**, People vs. Board Supervrs., 75 Cal. 179, 180, 16 Pac. Rep. 776; § **15**, Welsh vs. Bramlet, 98 Cal. 219, 220, 33 Pac. Rep. 66; Hale vs. McGettigan, 114 Cal. 112, 122, 45 Pac. Rep. 1049; § **20**, County San Diego vs. Seifert, 97 Cal. 594, 599, 32 Pac. Rep. 644; § **22**, Ex parte Benninger, 64 Cal. 291, 292, 30 Pac. Rep. 846; §§ **22, 25**, Ex parte Benjamin, 65 Cal. 310, 311, 4 Pac. Rep. 23; §§ **23, 24**, Ex parte Mirande, 73 Cal. 365, 370, 14 Pac. Rep. 888; § **25**, *subd. 5*, People ex rel. Attorney-General vs. Wheeler, 136 Cal. 652, 653, 69 Pac. Rep. 435; *subd. 18*, Potter vs. Fowzer, 78 Cal. 493, 495, 21 Pac. Rep. 118; § **25**, County Merced vs. Regents U. of C., 66 Cal. 25, 26, 4 Pac. Rep. 780; Comstock vs. County Yolo, 71 Cal. 599, 600, 12 Pac. Rep. 728; §§ **25, 36**, Schwartz vs. Wilson, 75 Cal. 502, 503, 17 Pac. Rep. 449; § **25**, Sutro vs. Pettitt, 74 Cal. 332, 335, 5 Am. St. Rep. 442, 16 Pac. Rep. 7; County San Luis Obispo vs. White, 91 Cal. 432, 434, 24 Pac. Rep. 864, 27 Id. 756; Blood vs. Woods, 95 Cal. 78, 85, 30 Pac. Rep. 129; Holley vs. County Orange, 106 Cal. 420, 422, 39 Pac. Rep. 790; Hale vs. McGettigan, 114 Cal. 112, 122, 45 Pac. Rep. 1049; §§ **25, 57, 60, 162**, People vs. Ferguson, 65 Cal. 283, 4 Pac. Rep. 4; §§ **25, 57**, People vs. Babcock, 114 Cal. 559, 562, 46 Pac. Rep. 818; § **26**, Santa Clara vs. S. P. R. Co., 66 Cal. 642, 644, 6 Pac. Rep. 744; San Luis Obispo vs. Hendricks, 71 Cal. 242, 246, 11 Pac. Rep. 682; People vs. Russell, 74 Cal. 578, 16 Pac. Rep. 395; Keena vs. Board Supervrs., 89 Cal. 11, 13, 26 Pac. Rep. 615; §§ **26, 37**, People vs. Baker, 83 Cal. 149, 150, 23 Pac. Rep. 364, 1112; §§ **37, 59, 115**, Butte County vs. Morgan, 76 Cal. 1, 2, 18 Pac. Rep. 115; § **37**, Gibson vs. Board Supervrs., 80 Cal. 359, 362, 22 Pac. Rep. 225; People vs. Counts, 89 Cal. 15, 16, 26 Pac. Rep. 612; § **41**, Hayes vs. County Los Angeles, 99 Cal.

74, 77, 33 Pac. Rep. 766; § **44**, Zirker vs. Hughes, 77 Cal. 235, 236, 19 Pac. Rep. 423; § **55**, Crossman vs. Kenniston, 97 Cal. 379, 381, 32 Pac. Rep. 448; §§ **55, 184**, Fraser vs. Alexander, 75 Cal. 147, 150, 16 Pac. Rep. 757; §§ **57-59**, People vs. Burkhart, 76 Cal. 606, 607, 18 Pac. Rep. 776; §§ **57, 59**, City of Oakland vs. Snow, 145 Cal. 419, 427, 78 Pac. Rep. 1060; §§ **57, 154**, Ventura County vs. Clay, 112 Cal. 65, 71, 44 Pac. Rep. 488; (**33d class**), Howes vs. Abbott, 78 Cal. 270, 271, 20 Pac. Rep. 572; § **60**, Dillon vs. Bicknell, 116 Cal. 111, 113, 47 Pac. Rep. 937; § **74**, Nat. Bank of D. O. Mills vs. Greenlaw, 134 Cal. 673, 675, 66 Pac. Rep. 963; § **107**, Wood vs. Lowden, 117 Cal. 232, 234, 49 Pac. Rep. 132; § **123**, Colton L. & W. Co. vs. Swartz, 99 Cal. 278, 285, 33 Pac. Rep. 878; § **136**, Hedges vs. Dam, 72 Cal. 520, 521-523, 14 Pac. Rep. 133; §§ **158, 163**, Allen vs. Napa County, 82 Cal. 187, 190, 23 Pac. Rep. 43; § **162**, Donlon vs. Jewett, 88 Cal. 530, 531, 26 Pac. Rep. 370; McCabe vs. Jefferds, 122 Cal. 302, 54 Pac. Rep. 897; § **163**, San Luis Obispo County vs. Darke, 76 Cal. 92, 95, 18 Pac. Rep. 118; §§ **163, 211**, Dougherty vs. Austin, 94 Cal. 601, 604-610, 28 Pac. Rep. 834, 29 Id. 1092, 16 L. R. A. 161; § **164**, County Santa Clara vs. Branham, 77 Cal. 592, 595, 20 Pac. Rep. 75; § **164**, Lynch vs. Butte County, 102 Cal. 446, 448, 36 Pac. Rep. 806; §§ **164, 169**, Smith vs. Dunn, 68 Cal. 54, 55, 8 Pac. Rep. 625; §§ **170, 188, 211**, Welsh vs. Bramlet, 98 Cal. 219, 220, 33 Pac. Rep. 66; § **181**, Rosborough vs. Boardman, 67 Cal. 116, 117, 7 Pac. Rep. 261; §§ **182, 211**, Dougherty vs. Austin, 94 Cal. 601, 603, 28 Pac. Rep. 834, 29 Id. 1092, 16 L. R. A. 161; § **215**, County Kern vs. Fay, 131 Cal. 547, 550, 63 Pac. Rep. 857; § **234**, Cody vs. Murphey, 89 Cal. 522, 525, 26 Pac. Rep. 1081; People ex rel. Daniels vs. Henshaw, 76 Cal. 436, 445, 18 Pac. Rep. 413; Wickersham vs. Brittan, 93 Cal. 34, 40, 28 Pac. Rep. 792, 29 Id. 51, 15 L. R. A. 106.

STATS. 1885, 166.—§§ 4, 162-169, Miller vs. Kister, 68 Cal. 142, 143, 144, 8 Pac. Rep. 813; § **162**, Donlon vs. Jewett, 88 Cal. 530, 532, 26 Pac. Rep. 370; § **179**, Kirkwood vs. Soto, 87 Cal. 394, 395, 25 Pac. Rep. 488; § **197**, Cody vs. Murphey, 89 Cal. 522, 523, 26 Pac. Rep. 1081; §§ **201-210**, Donlon vs. Jewett, 88 Cal. 530, 532, 26 Pac. Rep. 370; § **211**, Allen vs. Napa County, 82 Cal. 187, 191, 23 Pac. Rep. 43; § **211 (Salaries)**, Dougherty vs. Austin, 94 Cal. 601, 635, 28 Pac. Rep. 834, 29 Id. 1092, 16 L. R. A. 161.

The act generally.—Longan vs. County

Solano, 65 Cal. 122, 123, 3 Pac. Rep. 463; Gett vs. Supervrs. Sacramento, 111 Cal. 366, 43 Pac. Rep. 1122.

STATS. 1887, 178.—§ 20, Los Angeles vs. Lankershim, 100 Cal. 525, 528, 35 Pac. Rep. 153, 556; § 25, People ex rel. Attorney-General vs. Eichelroth, 78 Cal. 141, 142, 20 Pac. Rep. 364, 2 L. R. A. 770; § 69, People ex rel. Fleming vs. Shorb, 100 Cal. 537, 541, 38 Am. St. Rep. 310, 35 Pac. Rep. 163; § 110½, Over-all vs. County Tulare, 100 Cal. 61, 63, 34 Pac. Rep. 519; §§ 110½, 154, Ventura County vs. Clay, 112 Cal. 65, 73, 44 Pac. Rep. 488; § 211, People vs. Johnson, 95 Cal. 471, 474, 31 Pac. Rep. 611; County Orange vs. Harris, 97 Cal. 600, 602, 32 Pac. Rep. 594.

STATS. 1889, 232.—§ 25, McAllister vs. Hamlin, 83 Cal. 361, 365, 23 Pac. Rep. 357; subd. 26, Ex parte Hodges, 87 Cal. 162, 164, 25 Pac. Rep. 277; §§ 70, 212, 214, People vs. Hamilton, 103 Cal. 488, 491, 37 Pac. Rep. 627; §§ 162, 163, Donlon vs. Jewett, 88 Cal. 530, 532, 26 Pac. Rep. 370; §§ 180, 212, Banks vs. Yolo County, 104 Cal. 258, 259, 37 Pac. Rep. 900; § 188, Green vs. County Fresno, 95 Cal. 329, 331, 30 Pac. Rep. 544; § 211, Welsh vs. Bramlet, 98 Cal. 219, 220, 33 Pac. Rep. 66; § 189, County San Luis Obispo vs. Graves, 84 Cal. 71, 73, 23 Pac. Rep. 1032; § 201, Nelson vs. Breen, 98 Cal. 245, 246, 33 Pac. Rep. 85; §§ 201½, 202, Donlon vs. Jewett, 88 Cal. 530, 532, 26 Pac. Rep. 370.

STATS. 1891, 295.—§§ 5, 36, Smilie vs. Fresno County, 112 Cal. 311, 313, 44 Pac. Rep. 556; § 8, Boyne vs. Ryan, 100 Cal. 265, 266, 34 Pac. Rep. 707; §§ 8, 25, 41, County Colusa vs. Welch, 122 Cal. 428, 430, 55 Pac. Rep. 243; § 25, subds. 4, 35, Croley vs. California Pac. R. Co., 134 Cal. 557, 560, 561, 66 Pac. Rep. 860; § 25, subd. 20, White vs. Hayden, 126 Cal. 621, 622, 59 Pac. Rep. 118, 1113; § 25, subd. 27, Lamberson vs. Jefferds, 118 Cal. 363, 365, 50 Pac. Rep. 403; County Inyo vs. Erro, 119 Cal. 119, 120, 51 Pac. Rep. 32; § 25, Hicks vs. Folks, 97 Cal. 241, 242, 32 Pac. Rep. 8; Johnson vs. County Yuba, 103 Cal. 538-540, 37 Pac. Rep. 528; Journal Pub. Co. vs. Whitney, 97 Cal. 283, 284, 32 Pac. Rep. 237; Merced County vs. Helm, 102 Cal. 159, 164, 36 Pac. Rep. 399; Ex parte Mason, 102 Cal. 171, 172, 36 Pac. Rep. 401; County Modoc vs. Spencer, 103 Cal. 498, 499, 37 Pac. Rep. 483; Ex parte Mansfield, 106 Cal. 400, 402, 39 Pac. Rep. 775; McGowan vs. Ford, 107 Cal. 177, 180, 40 Pac. Rep. 231; Ex parte Seube, 115 Cal. 629, 630, 47 Pac. Rep. 596; §§ 25, 35, People ex rel. Wood vs. Sands, 102 Cal. 12-18, 36 Pac. Rep. 404; §§ 25, 113, McFarland vs. McCowen, 98 Cal. 329, 331, 33 Pac. Rep. 113; § 34, Frandzen vs. County San Diego, 101 Cal. 317, 318, 35 Pac. Rep. 897; §§ 60, 88, People ex rel. Sweet vs. Ward, 107 Cal. 236, 237, 40 Pac. Rep. 538; §§ 60, 117, 221, Dillon vs. Bicknell, 116 Cal. 111, 113, 47 Pac. Rep. 937; § 61, Farnum vs. Warner, 104 Cal. 677, 678, 38 Pac. Rep. 421; §§ 71, 115, County Mendocino vs. Johnson, 125 Cal. 337, 340, 58 Pac. Rep. 5; § 87, County San Diego vs. Dauer, 131 Cal. 199, 202, 63 Pac. Rep. 338; § 107, Wood vs. Lowden, 117 Cal. 232, 234, 49 Pac. Rep. 132; § 111, Von Schmidt vs. Wildber, 99 Cal. 511, 514, 34

Pac. Rep. 109; § 113, Sehorn vs. Williams, 110 Cal. 621, 622, 43 Pac. Rep. 8; Walton vs. McPhetridge, 120 Cal. 440, 443, 52 Pac. Rep. 731; Ventura County vs. Clay, 112 Cal. 65, 73, 44 Pac. Rep. 488; § 115, County San Luis Obispo vs. Pettit, 100 Cal. 442, 444, 34 Pac. Rep. 1082; §§ 124, 125, Cady vs. Purser, 131 Cal. 552, 557, 82 Am. St. Rep. 391, 63 Pac. Rep. 844; § 136, County Modoc vs. Spencer, 103 Cal. 498, 501, 37 Pac. Rep. 483; §§ 170, 234, Green vs. County Fresno, 95 Cal. 329, 331, 30 Pac. Rep. 544; § 170, Welsh vs. Bramlet, 98 Cal. 219, 221, 33 Pac. Rep. 66; § 182, Farnum vs. Warner, 104 Cal. 677, 678, 38 Pac. Rep. 421; § 183, People ex rel. Atkinson vs. Johnson, 95 Cal. 471, 472, 31 Pac. Rep. 611; § 190, Turner vs. County Siskiyou, 109 Cal. 332, 334, 42 Pac. Rep. 434; § 195, Bloss vs. Lewis, 109 Cal. 493, 495, 41 Pac. Rep. 1081; City Tulare vs. Hevren, 126 Cal. 226, 231, 58 Pac. Rep. 530; § 219, County Sonoma vs. Hall, 132 Cal. 589, 593, 62 Pac. Rep. 257, 312, 65 Id. 12, 459; § 234, Cody vs. Murphey, 89 Cal. 522, 524, 525, 26 Pac. Rep. 1081; § 235, Sanders vs. Sehorn, 98 Cal. 227, 229, 33 Pac. Rep. 58.

Statute generally.—Welsh vs. Bramlet, 98 Cal. 219, 224, 33 Pac. Rep. 66; County Modoc vs. Spencer, 103 Cal. 498, 499, 37 Pac. Rep. 483; Johnson vs. County Yuba, 103 Cal. 538, 540, 37 Pac. Rep. 528; Farnum vs. Warner, 104 Cal. 677, 678, 38 Pac. Rep. 421.

STATS. 1893, 346.—§§ 4, 51, Nelson vs. Merced County, 122 Cal. 644, 645, 55 Pac. Rep. 421; § 8, Moore vs. Morrison, 130 Cal. 80, 81, 62 Pac. Rep. 268; County Santa Cruz vs. McPherson, 133 Cal. 282-284, 65 Pac. Rep. 574; §§ 8, 25, 36, Ventura County vs. Clay, 119 Cal. 213, 214, 51 Pac. Rep. 189; § 10, Kummer vs. Board Supervrs., 103 Cal. 393, 394, 37 Pac. Rep. 383; §§ 13, 25, People ex rel. Young vs. Babcock, 114 Cal. 559, 563, 46 Pac. Rep. 818; §§ 15, 60, 170, Hale vs. McGettigan, 114 Cal. 112, 114, 45 Pac. Rep. 1049; §§ 15, 173, 234, County Tulare vs. Jefferds, 118 Cal. 361, 362, 50 Pac. Rep. 535; § 25, Thompson vs. Board Supervrs., 111 Cal. 553, 556, 44 Pac. Rep. 230; Ertle vs. Leary, 114 Cal. 238, 240, 46 Pac. Rep. 1; Power vs. May, 123 Cal. 147, 150, 55 Pac. Rep. 796; § 25, subd. 14, Mack vs. Jastro, 126 Cal. 130, 132, 58 Pac. Rep. 372; § 25, subd. 17, Lamberson vs. Jefferds, 118 Cal. 363, 364, 50 Pac. Rep. 403; County Inyo vs. Erro, 119 Cal. 119, 120, 51 Pac. Rep. 32; § 25, subd. 20, White vs. Hayden, 126 Cal. 621, 622, 59 Pac. Rep. 118, 1113; § 25, subd. 25, San Luis Obispo vs. Greenberg, 120 Cal. 300, 303-306, 52 Pac. Rep. 797; § 25, subd. 27, County Los Angeles vs. Eikenberry, 131 Cal. 461, 464, 63 Pac. Rep. 766; § 25, subd. 35, Harris vs. Gibbins, 114 Cal. 418-421, 46 Pac. Rep. 292; § 25, subd. 36, Freman vs. Marshall, 137 Cal. 159, 161, 162, 69 Pac. Rep. 986; § 25, subd. 41, Bedel vs. Scott, 126 Cal. 675, 59 Pac. Rep. 210; §§ 25, 58, People vs. Chaves, 122 Cal. 134, 137, 54 Pac. Rep. 596; §§ 25, 220, Modoc County vs. Madden, 120 Cal. 555, 558, 52 Pac. Rep. 812; § 41, County Kings vs. County Tulare, 119 Cal. 509, 511, 51 Pac. Rep. 866; § 43, Arbios vs. County San Bernardino, 110 Cal. 553, 554, 42 Pac. Rep. 1080; §§ 43, 44, San Diego vs. Riverside,

125 Cal. 495, 499, 58 Pac. Rep. 81; § 51, Solano County vs. McCudden, 120 Cal. 648, 649, 53 Pac. Rep. 213; §§ 57, 58, Kahn vs. Sutro, 114 Cal. 316, 327, 46 Pac. Rep. 87, 33 L. R. A. 620; §§ 61, 173, Tulare County vs. May, 118 Cal. 303, 305, 50 Pac. Rep. 427; §§ 61, 216, San Francisco vs. Broderick, 125 Cal. 188, 193, 57 Pac. Rep. 887; §§ 70-72, 80-89, County San Diego vs. Schwartz, 145 Cal. 49, 51, 78 Pac. Rep. 231; § 98, Lambert vs. McKenzie, 135 Cal. 100, 67 Pac. Rep. 6; § 102, Whelan vs. Superior Court, 114 Cal. 548, 549, 46 Pac. Rep. 468; § 114, Ventura County vs. Clay, 114 Cal. 242, 245, 46 Pac. Rep. 9; §§ 136, 197, 210, County Kern vs. Fay, 131 Cal. 547, 550, 63 Pac. Rep. 857; § 137, Merriam vs. Barnum, 116 Cal. 619, 621, 48 Pac. Rep. 727; § 145, Vail vs. San Diego County, 126 Cal. 35, 36, 58 Pac. Rep. 392; § 170, subd. 26, Hale vs. McGettigan, 114 Cal. 112, 117 et seq., 45 Pac. Rep. 1049; § 170, subd. 24, Freman vs. Marshall, 137 Cal. 159, 162, 69 Pac. Rep. 986; § 173, McPhail vs. Jefferds, 130 Cal. 480, 62 Pac. Rep. 735; Ellis vs. Jefferds, 130 Cal. 478, 62 Pac. Rep. 734; § 183, Martin vs. Santa Barbara, 105 Cal. 208, 210, 38 Pac. Rep. 687; § 195, Davis vs. Post, 125 Cal. 210, 212, 57 Pac. Rep. 901; § 196, subd. 14, Klernan vs. Swan, 131 Cal. 410, 411, 63 Pac. Rep. 768; § 197, subd. 16, White vs. Hayden, 126 Cal. 621, 622, 59 Pac. Rep. 118, 1113; § 200, Cooley vs. County Calaveras, 121 Cal. 482, 485, 53 Pac. Rep. 1075; § 204, County Tulare vs. Jefferds, 118 Cal. 361, 50 Pac. Rep. 535; § 210, Irwin vs. County Yuba, 119 Cal. 686, 689, 52 Pac. Rep. 35; § 221, Dillon vs. Bicknell, 116 Cal. 111, 115, 47 Pac. Rep. 937; § 236, County San Diego vs. Schwartz, 145 Cal. 49, 51, 78 Pac. Rep. 231.

Tolls.—Blood vs. McCarty, 112 Cal. 561, 563, 44 Pac. Rep. 1025; Kahn vs. Sutro, 114 Cal. 316, 319, 46 Pac. Rep. 87, 33 L. R. A. 620. **Compare** with Ex parte Frazer, 54 Cal. 94; and as to municipal powers, see Davies vs. City Los Angeles, 86 Cal. 37, 24 Pac. Rep. 771.

Generally.—Harris vs. Gibbins, 114 Cal. 418, 420, 46 Pac. Rep. 292.

Fees.—Dwyer vs. Parker, 115 Cal. 544, 548, 47 Pac. Rep. 372.

STATS. 1895, 1-11.—§§ 162, 216, Summerland vs. Bicknell, 111 Cal. 567, 568, 44 Pac. Rep. 232.

STATS. 1897, 452.—§§ 1, 2, 13, 25, Ex parte Anderson, 134 Cal. 69, 70, 71, 86 Am. St. Rep. 236, 66 Pac. Rep. 194; § 8, Ventura County vs. Clay, 112 Cal. 65, 66, 44 Pac. Rep. 488; Sacramento vs. Southern Pac. Co., 127 Cal. 217-224, 59 Pac. Rep. 568, 825; §§ 8, 25, subds. 1-16, Contra Costa County vs. Soto, 138 Cal. 57, 60, 70 Pac. Rep. 1019; § 15, Bergevin vs. Curtz, 127 Cal. 86, 87, 59 Pac. Rep. 312; § 25, Davis vs. Whidden, 117 Cal. 618, 619, 49 Pac. Rep. 766; Los Angeles vs. Hollywood Cem. Assoc., 124 Cal. 344, 348, 71 Am. St. Rep. 75, 57 Pac. Rep. 153; Lougher vs. Soto, 129 Cal. 610, 611, 62 Pac. Rep. 184; San Luis Obispo vs. Greenberg, 120 Cal. 300, 305, 52 Pac. Rep. 797; Peck vs. Board Supervrs., 90 Cal. 384, 385, 27 Pac. Rep. 301; § 25, subd. 2, Lougher vs. Soto, 129 Cal. 610, 612, 62 Pac. Rep. 184; § 25, subd. 4, Johnston vs. County Sacramento, 137 Cal. 204, 205, 69 Pac. Rep. 962; § 25, subds.

4, 37, 40, Croley vs. California Pac. R. Co., 134 Cal. 557, 66 Pac. Rep. 860; § 25, subd. 5, People vs. Wheeler, 143 Cal. 68, 69; § 25, subd. 13, Devine vs. Board Supervrs., 121 Cal. 670, 672, 54 Pac. Rep. 262; Mack vs. Jastro, 126 Cal. 130, 132, 58 Pac. Rep. 372; § 25, subd. 18, Potter vs. Fowzer, 78 Cal. 493, 494, 21 Pac. Rep. 118; see also Miller & Lux vs. Batz, 142 Cal. 447, 449, 76 Pac. Rep. 42; § 25, subd. 19, People ex rel. Murphy vs. Col, 132 Cal. 334, 64 Pac. Rep. 477; People ex rel. Richardson vs. Cobb, 133 Cal. 74, 75, 65 Pac. Rep. 325; § 25, subd. 21, Van Harlingen vs. Doyle, 134 Cal. 53, 54, 55, 66 Pac. Rep. 44, 54 L. R. A. 771; § 25, subds. 25, 27, County Inyo vs. Erro, 119 Cal. 119, 51 Pac. Rep. 32; § 25, subd. 35, Harris vs. Gibbins, 114 Cal. 418, 420, 46 Pac. Rep. 292; Merriam vs. Barnum, 116 Cal. 619, 622, 48 Pac. Rep. 727; § 25, subd. 36, Freeman vs. Barnum, 131 Cal. 386, 388, 82 Am. St. Rep. 355, 63 Pac. Rep. 691; Knight vs. Martin, 128 Cal. 245, 246, 60 Pac. Rep. 849; §§ 26, 56, Proulx vs. Graves, 143 Cal. 243, 244-246, 76 Pac. Rep. 1025; §§ 34, 232, subds. 8, 176, Storke vs. Goux, 129 Cal. 526, 527, 62 Pac. Rep. 68; § 42, McBride vs. Newlin, 129 Cal. 36, 37, 61 Pac. Rep. 577; § 55, Pratt vs. Browne, 135 Cal. 649, 650, 67 Pac. Rep. 1082; § 56, Beach vs. Von Detten, 139 Cal. 462, 463, 73 Pac. Rep. 187; Kenworthy vs. Mast, 141 Cal. 268, 274, 74 Pac. Rep. 871; Sanchez vs. Fordyce, 141 Cal. 427, 428, 75 Pac. Rep. 56; § 58, People ex rel. Murphy vs. Col, 132 Cal. 334, 64 Pac. Rep. 477; §§ 50, 158, 215, San Francisco vs. Broderick, 125 Cal. 188, 193, 57 Pac. Rep. 887; §§ 70, 72, 80, 82, 84, 89, 263, County San Diego vs. Schwartz, 145 Cal. 49, 51, 78 Pac. Rep. 231; § 71, Nat. Bank D. O. Mills vs. Greenlaw, 134 Cal. 673, 675, 66 Pac. Rep. 963; §§ 92, 93, 100, Alexander vs. Wilson, 144 Cal. 5, 8, 77 Pac. Rep. 706; § 120, County Kern vs. Lee, 129 Cal. 361, 363, 61 Pac. Rep. 1124; §§ 132, 133, 215, 228, Humiston vs. Shaffer, 145 Cal. 195, 196, 78 Pac. Rep. 651; § 135, Ward vs. Crowell, 142 Cal. 587, 588, 76 Pac. Rep. 491; § 154, Ventura County vs. Clay, 112 Cal. 65, 73, 44 Pac. Rep. 488; County Butte vs. Merrill, 141 Cal. 396, 398, 74 Pac. Rep. 1036; § 157, Beach vs. Von Detten, 139 Cal. 462, 463, 73 Pac. Rep. 187; §§ 165, 233, Vail vs. San Diego County, 126 Cal. 35, 36, 58 Pac. Rep. 392; § 166, subd. 13, Tucker vs. Barnum, 144 Cal. 266, 267, 77 Pac. Rep. 919; § 168, County Humboldt vs. Stern, 136 Cal. 63, 64, 68 Pac. Rep. 324; § 170, Freman vs. Marshall, 137 Cal. 159-164, 69 Pac. Rep. 986; §§ 170, 232, 234, McCabe vs. Jefferds, 122 Cal. 302, 303, 54 Pac. Rep. 897; §§ 172, 25, subd. 36, Knight vs. Martin, 128 Cal. 245, 249, 60 Pac. Rep. 849; § 179, subd. 8, Storke vs. Goux, 129 Cal. 526, 527, 62 Pac. Rep. 68; § 183, Lougher vs. Soto, 129 Cal. 610, 613, 62 Pac. Rep. 184; § 187, subd. 16, Pratt vs. Browne, 135 Cal. 649, 652, 67 Pac. Rep. 1082; §§ 191, 216, Davis vs. Post, 125 Cal. 210, 212, 57 Pac. Rep. 901; § 200, subd. 13, Cooley vs. County Calaveras, 121 Cal. 482, 485, 53 Pac. Rep. 1075; § 204, subd. 15, Chapin vs. Wilcox, 114 Cal. 498, 499, 46 Pac. Rep. 457; § 207, County Tulare vs. Jefferds, 118 Cal. 361, 50 Pac. Rep. 535; § 215, County Humboldt vs. Stern, 136 Cal. 63-65, 68 Pac.

Rep. 324; City of Oakland vs. Snow, 145 Cal. 419, 425, 78 Pac. Rep. 1060; § 216, subd. 36, § 25, Knight vs. Martin, 128 Cal. 246, 246, 247, 60 Pac. Rep. 849; §§ 216, 221, 222, 227, I. X. L. Lime Co. vs. Superior Court, 143 Cal. 170, 172, 76 Pac. Rep. 973; §§ 216 et seq., County San Diego vs. Schwartz, 145 Cal. 49, 50, 78 Pac. Rep. 231; § 232, County San Diego vs. Schwartz, 145 Cal. 49, 51, 78 Pac. Rep. 231; §§ 232, 234, Storke vs. Goux, 129 Cal. 526, 62 Pac. Rep. 68; § 233, 170, Ellis vs. Jefferds, 130 Cal. 478, 479, 62 Pac. Rep. 734; § 233, McPhail vs. Jefferds, 130 Cal. 480, 62 Pac. Rep. 735; § 236, Miller vs. County Kern, 137 Cal. 516, 518, 70 Pac. 549. **Compare** with County San Diego vs. Schwartz, 145 Cal. 49, 78 Pac. Rep. 231. Stats. 1893.

Statute generally.—Dwyer vs. Parker (fees and salaries), 115 Cal. 544, 548, 47 Pac. Rep. 372; Stevens vs. Truman (reporters' fees), 127 Cal. 155, 160, 59 Pac. Rep. 397; Matter of Dodge (poll-tax), 135 Cal. 512, 514, 67 Pac. Rep. 973; Bruce vs. Jack (fees, etc., Calaveras), 135 Cal. 535, 67 Pac. Rep. 907; County Alameda vs. Evers (claims), 136 Cal. 132, 68 Pac. Rep. 475; Thom vs. County Los Angeles (fees and salaries), 136 Cal. 375, 378, 69 Pac. Rep. 18.

SUPERVISORS—INJUNCTION AGAINST—When does not lie.—Barto vs. Board Supervrs., 135 Cal. 494, 67 Pac. Rep. 758.

When does lie.—Johnston vs. Sacramento County, 137 Cal. 204, 205-209, 69 Pac. Rep. 962.

STATS. 1901, 685.—§ 54, Ward vs. Crowell, 142 Cal. 587, 588, 76 Pac. Rep. 491; §§ 56-58, Sanchez vs. Fordyce, 141 Cal. 427, 428-430, 75 Pac. Rep. 56; § 56, Kenworthy vs. Mast, 141 Cal. 268, 274, 74 Pac. Rep. 841; Beach vs. Von Detten, 139 Cal. 462, 463, 73 Pac. Rep. 187; Davidson vs. Von Detten, 139 Cal. 467, 73 Pac. Rep. 189.

STATS. 1903, 179-241.—§ 192, subd. 13, McCauley vs. Culbert, 144 Cal. 276, 77 Pac. Rep. 923.

Stats. 1905, § 184, subd. 13, held unconstitutional in Johnson vs. Gunn, Dist. Ct. App., July 24, 1905.

DECISIONS UNDER THE GENERAL "FEE BILL" of 1895 should be consulted, as several of the decisions under that statute deal with provisions of the County Government Statute in matters of fees and salaries, but they are more properly cited under Stats. 1895.

FOR CERTAIN DUTIES OF SUPERVISORS, see tits. **Levee Districts**, post, Stats. 1905, 327; **License Tax**; **Bridge**; **Bicycle**; **Sheep**, etc.

See *Posse Comitatus*.

COUNTY PROPERTY—INVENTORIES.

See **Public Property**.

COURTS—RECORDS OF.

To transfer the records, papers, and business of the courts existing on the thirty-first day of December, eighteen hundred and seventy-nine, in this state, to the courts now existing therein.

(Stats. 1880, 2 ch. IV.)

§ 1. The supreme court shall, for all purposes, be considered the successor of the court of the same name which was abolished on the first day of January, eighteen hundred and eighty, and to have succeeded to all its unfinished business. It shall have jurisdiction of, and shall hear and determine, or otherwise dispose of, all causes, proceedings, appeals, motions, and matters pending on said day in the court superseded by it; and also, of all appeals taken to such court before or after such day, from judgments or orders of any of the inferior courts abolished by the constitution. From and after the first day of January, eighteen hundred and eighty, the supreme court shall have the custody of all records, books, and papers of the former supreme court, and the same jurisdiction over its judgments, orders, and proceedings as if they had in the first instance been rendered, made, or commenced in the present court. All laws relating to the former court shall, as far as applicable, be considered as applying to the present court. All rules of the former court which were in force on the first day of January, eighteen hundred and eighty, and not inconsistent with the constitution, shall continue in force as rules of the present court until altered, abolished, or superseded by the order of the court.

§ 2. The superior court of each county in this state shall, for all purposes, be considered the successor of the district, county, and probate courts thereof, and, in the city and county of San Francisco, of the municipal criminal court and municipal court of appeals, and shall be deemed to have succeeded to all the unfinished business of said courts. The superior courts shall hear, determine, or otherwise dispose of, all causes and proceedings which were pending on the first day of January, eighteen hundred and eighty, in the said courts superseded by them, and every motion or proceeding then pending or thereafter made or taken in such causes and proceedings, and of which said courts would have had jurisdiction had they not been abolished; and also, all appeals taken or perfected, before or after said day, from all orders or judgments of justices' and police courts which by law are declared to be appealable. From and after the first day of January, eighteen hundred and eighty, the superior courts shall have the custody of all the records, books, and papers of the said courts superseded by them, and shall have jurisdiction thereof, and of the judgments, orders and process of said courts; and shall enforce the same and issue process thereon in like manner, and with the same effect, as if they had in the first instance been filed, commenced, rendered, made, or issued in or by the superior court. The superior court of the city and county of San Francisco shall have jurisdiction of, and shall try and dispose of, all indictments for misdemeanor pending in the city criminal court of said city and county on the first day of January, eighteen hundred and eighty; and such indictments and all papers and records relating thereto, shall be transferred to the said superior court and become records thereof. Any application, motion, or proceeding, set by the district, county, or probate court of any county, or by the judge thereof, to be heard by such court or judge after the first day of January, eighteen hundred and eighty, may be heard in the superior court of such county, upon the same notice that was required to authorize the hearing thereof in such district, county, or probate court, or by the judge thereof. Any process issued out of any district, county, or probate court of this state before the first day of January, eighteen hundred and eighty, may be served, or the service thereof completed, after said day, in the same manner and with like effect, as if such courts had not been abolished; provided, that such process shall be returned to the superior court of the county in which it was issued, and any appearance or answer required by such process shall be made or filed in such court.

§ 3. All prosecutions which were transferred or certified for trial to the city criminal court of the city and county of San Francisco, by the police court thereof, and were pending or undetermined on the first day of January, eighteen hundred and eighty, shall be tried and disposed of in the said police court: and all the papers, pleadings, and records relating to such prosecutions shall be transferred to, and deposited with, said police court, and become records and papers thereof.

§ 4. This act shall take effect immediately.

COUNTY SEATS.

See County Government Act § 11; KERR'S CYC. POL. CODE § 3902; Const. 1876 § 2, art. XI.

COURTS—SUPERIOR.

To confer upon the superior court of each county and the judge thereof the powers heretofore possessed by the district, county, and probate courts of such county, and the judges thereof.

(Stats. 1880, 23, ch. XXXII.)

§ 1. In all cases in which, on the first day of January, eighteen hundred and eighty, any authority or jurisdiction was by law vested in the county or probate court of any county, or in the judge thereof, or in any district court of such county, or in the judge thereof, such jurisdiction and authority shall hereafter, while such law continues in force, be vested in and exercised by the superior court of such county, or by a judge thereof.

§ 2. If any judge of the superior court of any county was the judge of the county, probate, or district court, in and for said county, on the first day of January, eighteen hundred and eighty, and any cause, proceeding, or motion, wholly or partially tried before him, remains undecided, the superior court, when presided over by him, may resume the consideration or trial of such cause, proceeding, or motion, at the stage where it was suspended in such probate, county, or district court, and may complete such trial or hearing, or determine such cause, motion, or proceeding, as if the same had first been brought or made in such superior court.

§ 3. This act shall take effect immediately.

Smith vs. Hill, 89 Cal. 122-128, 26 Pac. Rep. 644.

See tits. **New Counties; Seal; Process; Writs.**

COURTS—SUPERIOR—SECRETARY.

Authorizing the judges of the superior courts, in all counties, and cities and counties, having a population of two hundred thousand and over to appoint a secretary.

(Stats. 1895, 98, ch. CVII.)

§ 1. In all counties, and cities and counties, having a population of two hundred thousand inhabitants and over, the judges of the superior court in such counties, and cities and counties, may appoint a secretary, who shall receive a salary of one hundred and fifty (\$150) dollars per month, and hold office at their pleasure, and shall perform such duties as may be required of him by the court or the judges thereof. Said salary shall be audited, allowed, and paid out of the general fund of such counties, and cities and counties.

§ 2. This act shall take effect from and after its passage.

COYOTE SCALPS.

See **State of California—Actions Against.**

CRANES—KILLING OF.

The Stats. 1889, 205, to prevent destruction of blue cranes, has been carried into the Penal Code by Stats. 1905, 687.

See **KERR'S CYC. PEN. CODE** §§ 599, 599a.

CRESCENT CITY—WATER FRONT.

To cede certain property to the town of Crescent City.

(Stats. 1867-8, 335, ch. CCXCIX.)

§ 1. The state of California hereby grants to the town of Crescent City, in the county of Del Norte, the entire water front of said town, and all of the right, title, and interest of the said state in and to all of the lands within the corporate limits of said town which are subject to overflow, and also all the right, title and interest of the said state in and to all of the land covered by water in front of said town out to where the water is eighteen feet deep at low tide.

§ 2. The said water front and overflowed lands herein granted shall not be subject to execution upon any judgment against said town, but may be sold from time to time by the authorities of said town in such manner as will be most to the interest of said town of Crescent City.

§ 3. Said cession is made upon the express condition that the authorities of said town of Crescent City shall not sell the property ceded without first giving notice of said sale, by publication in some newspaper published in said Del Norte County (if such newspaper there be), and by posting notices in three of the most public places in said town of Crescent City, for thirty days next preceeding such sale, and that said property so ceded shall be sold at public auction to the highest bidder, and in separate lots not exceeding in size one hundred by one hundred and fifty feet.

§ 4. Any person who has erected useful and substantial buildings upon any property ceded to the town of Crescent City by this act, and who believing that he had a good title to such property by virtue of a purchase from the founders of said town, shall have the privilege, within six months from the passage of this act, of purchasing the lots on which they have built, at private sale, from the proper authorities of said town at a fair valuation without the buildings, such valuation to be determined by the authorities of said town.

§ 5. This act shall take effect and be in force from and after its passage.

CRIMINAL CAUSES—COSTS ON REMOVAL.

Costs of on removal for trial.—It was held, in *Needham vs. Thresher*, 49 Cal. 392, that this act is not repealed by Penal Code; but see §§ 4335, 4336, Pol. Code, and §§ 229, 230, County Government Act. It is deemed unnecessary to publish the statute.—Stats. 1851, 185, ch. XVIII.

CURRENCY—UNITED STATES.

See **Legal Tender Notes.**

DAIRIES—INSPECTION.

To provide for the inspection of dairies, factories of dairy products, and of dairy products as to their sanitary condition and as to the health of stock; to prevent the sale of milk and the products of milk drawn from diseased animals; to prevent the spread of infectious and contagious diseases common to stock, and to appropriate money therefor.

(Stats. 1899, 171, ch. CXXXVI.)

§ 1. No person or persons, firms or corporation, shall sell or offer for sale, or have in his or their possession for sale, any impure or unwholesome milk,

or any article of food manufactured therefrom, or of any cream from the same, or milk drawn from cows, either fifteen days before or five days following parturition, or from cows fed on unwholesome food, or from cows affected with any disease of live stock, contagious, infectious, or otherwise capable of producing such pathological changes as will cause the products from said animals to become unwholesome for food.

§ 2. It shall be the duty of the state dairy bureau, by its general agent and assistant agents, from time to time, as may be required, upon complaint made to it of the existence of any disease among dairy stock, or of unsanitary conditions, as mentioned and referred to in this act, to inspect all the dairies and creameries in the state so complained of, and to carefully investigate the sanitary conditions of the same. Said bureau, by its agents and assistant agents, shall at the same time inspect all cattle, horses, and hogs, belonging, in use by, or appurtenant to such dairies and creameries, for infectious and contagious diseases, such as are enumerated in section one of this act; and after such inspection, if said agent or assistant agents believes, or has reason to believe, that any contagious or infectious disease exists among the stock inspected, he shall immediately notify the state veterinarian of the same, setting forth the facts of the case, and he shall forthwith act upon such report.

§ 3. The state dairy bureau shall, and they are hereby directed to appoint, from time to time, as many assistant agents, not exceeding twenty, as in their judgment may be required to carry out the provisions of this act, and to fix their compensation, not to exceed four dollars per day while actually employed, exclusive of their actual and necessary expenses. Whenever competent assistant agents can be found in counties or districts where such inspection is to be made, the state dairy bureau, by its general agent, shall appoint an assistant agent as inspector, who is not an owner of nor interested in any dairy, subject to the approval of the bureau, and such appointment shall be entered on the minutes of the bureau; provided, that such assistant agent shall have had practical experience in the manufacture of dairy products and the care and handling of stock.

§ 4. All persons employed by the bureau to carry out the provisions of this act shall render, under oath, to the state dairy bureau, on or before the fifth day of each and every month, an itemized statement of the number of days they were actually employed during the preceding month; also, an itemized statement of their actual expenses, with receipted vouchers attached thereto, for all sums exceeding one dollar, excepting railroad fares.

§ 5. Whenever in the judgment of the state veterinarian it shall for the purposes of this act be necessary to slaughter any animal or animals reported to him by said agent or assistant agent, he shall certify his reasons therefor to the agent ordering such inspection. The agent or assistant agent shall notify the owner or owners, or the person or persons in charge of the animal or animals, of the decision of said state veterinary surgeon, and shall order the animal or animals specified in the veterinary surgeon's certificate to be slaughtered immediately. Any animal or animals so slaughtered shall not be sold or removed, but shall be destroyed at the expense of the owner or

owners, or the person or persons in charge of such animal or animals, under the direction and supervision of the agent or assistant agent ordering the animal or animals slaughtered, as may be specified by the state veterinarian.

§ 6. Whenever the agent or assistant agents of the bureau inspects any dairy, creamery, or any other place where milk is produced, or where products are manufactured from the same, including barns, corrals, hog yards, and places used for stock purposes, and utensils used in dairies and creameries, and finds the same not in good sanitary condition, he shall direct in writing such changes to be made as will put the same in good sanitary condition. Such written directions shall be served on the owner or owners, or upon the person or persons having charge of the premises, giving the parties so notified thirty days to make such changes as directed. If such changes are not made within thirty days, the person or persons refusing or neglecting to make such changes as directed shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as hereinafter prescribed.

§ 7. Whenever any infectious or contagious disease affecting dairy stock shall be brought into or break out in this state, the state dairy bureau, by its agent and assistant agents, shall take prompt measures to suppress the same, and to prevent such disease from spreading, and for that purpose shall immediately notify the state veterinarian, and he shall forthwith inspect the matters so reported and act thereon.

§ 8. The agent or assistant agents shall also have the power to require each and every person, firm or corporation, having any stock in his or their possession, or under his or their control, to drive the same into corrals or small inclosures, for the purpose of inspection. Said agent shall give at least twenty-four hours' notice to the parties, of the time he requires such stock to be corralled; provided, that where it is impracticable to corral stock on large stock ranges, the owner or the person or persons having control of the same shall go with the agent or send some person to point out the stock to be inspected.

§ 9. It shall be the duty of the district attorney of each and every county of this state, upon application of the agent or assistant agents of the state dairy bureau, to attend to the prosecution, in the name of the state, of any action brought for the violation of any of the provisions of this act, within his district.

§ 10. Any person or persons, firms or corporations, refusing or neglecting to comply with or conform to the provisions of this act, when required to do so by the agent or assistant agents of the state dairy bureau, or who shall in any manner interfere with them in the performance of their duties under this act, shall be guilty of a misdemeanor. Whoever shall violate any of the provisions or sections of this act shall be guilty of a misdemeanor. All fines collected under the provisions of this act shall be paid to the agent of the state dairy bureau, and by said bureau paid into the state treasury.

§ 11. For the purpose of obtaining accurate information regarding the dairy industries of the state, the dairy bureau shall annually require in writing from each owner or manager of a dairy, owning or controlling any dairy

stock exceeding one dozen cows in number, a report showing location of dairy, number and breed of all dairy stock in use or appurtenant thereto, together with such other pertinent information as said bureau may require. Information thus obtained shall be embraced in the annual report of the dairy bureau.

§ 12. It shall be the duty of the state dairy bureau now provided by law, by its general agent, to enforce the provisions of this act. Such agent shall receive an additional salary of fifty dollars per month, payable out of the money appropriated for the enforcement of this act.

§ 13. There is hereby appropriated for the use of the state dairy bureau, in enforcing and carrying out the provisions of this act, out of any money in the state treasury not otherwise appropriated, the sum of one thousand dollars (\$1,000) for the remainder of the fiftieth fiscal year; three thousand seven hundred and fifty dollars (\$3,750) for the first six months of the fifty-first fiscal year; three thousand seven hundred and fifty dollars (\$3,750) for the last six months of the fifty-first fiscal year; and five thousand dollars (\$5,000) for the fifty-second fiscal year.

§ 14. All salaries, fees, costs, and expenses shall be drawn from the money so appropriated, and the state controller shall draw his warrant on the state treasury in favor of the person or persons entitled to the same; provided, that the state board of examiners are hereby specially prohibited from granting or allowing any deficiency to the state dairy bureau for the purposes of this act; and provided further, that in no event shall there be more agents or assistant agents employed, or expenses incurred under this act than the appropriations herein made will pay for the respective periods for which they are made.

§ 15. This act shall take effect immediately.

See *tits. Butter; Cheese; Dairy Products*. **KERR'S CYC. PEN. CODE** § 383a, which is doubtless intended to supersede the statute of 1899, 25, ch. XXV, to prevent the sale of process or renovated butter. The statute of 1905, 462, post, §§ 4, 5, 6, is doubtless intended also to supersede the statute of 1899, 25.

See note ante p. 99.

DAIRY BUREAU.

See *Butter; Cheese; Dairies*, ante.

See also next following statute.

DAIRY PRODUCTS—REGULATIONS.

To prevent the sale of dairy products from unhealthy animals and produced under unsanitary conditions; to provide for the inspection of dairy stock, dairies, factories for the production of dairy products and places where dairy products are handled and sold; to improve the quality of dairy products of the state; to prevent deception in the sale of dairy products and to appropriate money for enforcing its provisions.

(Stats. 1905, 462, ch. CCCLXIX.)

§ 1. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, expose for sale or offer for sale, or exchange, present or deliver to any creamery, cheese factory, milk condensing factory,

or any other buyer or consumer, any unclean, unwholesome, stale, impure milk, cream, butter, condensed or evaporated milk or other article produced from such milk or cream. Neither shall any person or persons, firms or corporations, by themselves or their agents or employees, sell, expose for sale, or offer for sale, or exchange, present or deliver to any consumer, creamery, cheese factory, milk condensing factory, or any other buyer or consumer, any milk, cream, butter, cheese, condensed milk or other products manufactured therefrom, which has been produced in or by a dairy, or factory of dairy products or that is, or has been, handled in any store or depot that is in an unsanitary condition or that is produced from cows affected by any disease or from cows within five days after or fifteen days preceding parturition.

§ 2. A dairy shall be deemed unsanitary under the meaning of this act when, among other causes that render milk, or products made therefrom, unclean, unwholesome, impure, and unhealthy.

(b) If the drinking water is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter.

(c) If the yards or inclosures are filthy or unsanitary or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise where it is allowed to ferment and decay.

If the walls become soiled with manure, urine or other filth.

(g) If to the interior of cattle stables, barns or milking sheds an application of lime whitewash is not made at least once in two years, or if in the mangers, or other receptacles from which cows are fed, decaying food or other material is allowed to accumulate.

(i) If the pails, cans, bottles or other containers of milk, or its products, strainers, coolers or other utensils coming in contact with the milk or its products are not sterilized by boiling water or superheated steam each and every time the same are used.

(j) If the person or wearing apparel of the dairyman, his employees, or other persons, who come in contact with milk and its products, are soiled or not washed from time to time.

§ 3. A creamery or any factory of dairy products or any store, depot, or other place where milk is handled or kept for sale shall be deemed unsanitary under the meaning of this act when, among other causes that render milk, or products made therefrom, unclean, unwholesome, impure, stale or of low grade or inferior quality.

(a) If milk or cream is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or if it is received in cans or other containers that have not been sterilized by means of boiling water or superheated steam after each delivery.

(b) If the utensils and apparatus that comes in contact with milk or its products in process of manufacture are not thoroughly washed and sterilized by means of boiling water or superheated steam.

(c) If the floor is so constructed that permits the flowing or soaking of water, milk or other liquids underneath or among the interstices of such floor where fermentation and decay may take place or if such floor may not be readily kept free from dirt.

(d) If drains are not provided that will convey refuse milk, water and sewage at least fifty yards from such creamery or factory of dairy products or if any cesspool, privy vault, hog yard, slaughter-house, manure or any decaying vegetables or animal matter shall be within a distance that will permit foul odors from reaching any creamery or other factory of dairy products or store or depot where milk or its products is sold or handled.

(e) If such creamery or factory of dairy products, does not permit access of light and air sufficient to secure good ventilation.

(f) If in any building or buildings used in connection with any creamery, or factory of dairy products, any insects or other species of animal life are permitted or if upon the floor, the sides and walls any milk or its products, or if any other filth is allowed to accumulate and ferment and decay or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any creamery, or factory of any dairy products, shall be unclean and not washed from time to time.

§ 4. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, expose for sale, or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, ice-cream producer, or any other buyer, or consumer, any milk, or any product manufactured or prepared therefrom, to which any compound containing salicylic acid, formaldehyde, coloring matter or any other chemical or preparation other than common salt, or sodium chloride, shall have been added with intent to prevent fermentation, or to change the color (in case of milk and cream); provided, that such person or persons, firms or corporations or their agents or employees may use preparations of boron to prevent fermentation in milk or its products, but whenever any preparation of boron is used for such purpose, each and every package or container of milk or its products shall have plainly marked thereon, the fact that it contains such preparation of boron.

Neither shall any gelatin, or other substance, be added to milk or cream with intent to increase its viscosity or otherwise cause it to appear better in quality than it is, except each and every package and container of such milk or cream shall have marked thereon in a manner, or be accompanied by a statement, to be prescribed by the state dairy bureau, showing the nature of the substance added; provided, that this section shall not be construed to prevent the use of harmless coloring matter in butter, ice-cream or confectionery into which milk or its products enter.

§ 5. No person or persons, firms or corporations, by themselves or their agents or employees, shall manufacture for sale, offer for sale, expose for sale, or have in his or their possession for sale, any package of butter upon which, or upon the wrapper or container of which, there shall be printed, or otherwise marked, the word pasteurize or any of its derivatives unless in the process of the manufacture of the butter contained therein either the milk or cream from which the same was made shall have been exposed to a temperature exceeding one hundred and fifty degrees Fahrenheit.

§ 6. In case any butter is sold or offered for sale in a package or wrapper purporting to designate the producer of such butter, such producer must be correctly designated; and if under a label purporting or calculated to desig-

nate the place of production, specifying county and state, must be correctly designated. No person, firm or corporation shall put up in package or wrapper or otherwise prepare for shipment or sale any butter under label purporting to designate the producer or place of production, except in accordance with the provisions herein; nor shall any person sell or offer for sale any butter in a package or wrapper purporting to designate the name of the producer or the place of production except in accordance with the provisions herein.

§ 7. It shall be the duty of the state dairy bureau, now existing under the laws of this state, to carry out and enforce the provisions of this act, and it is authorized and directed under this act out of the money appropriated as provided herein, to employ such assistant agents as inspectors as it may deem necessary and to fix their compensation not to exceed four dollars per day, exclusive of their necessary and actual expenses, such expenses to be itemized and rendered under oath, or one hundred dollars per month exclusive of their necessary and actual expenses. Such agents shall have had experience in the manufacture of dairy products and the handling of dairy cattle. In carrying out the provisions of this act the secretary and agent of the state dairy bureau shall receive, in addition to the salary now received under the provisions of the act creating said state dairy bureau, such additional compensation as the dairy bureau may see fit, but not to exceed one hundred dollars per month to be drawn from the amount appropriated herein. The state dairy bureau through its agent and secretary, and assistant agents shall inspect the dairies, dairy cattle, creameries and other factories of dairy products, markets and other places where dairy products are prepared or handled, and keep a careful record of such inspection and report the same to the state dairy bureau, and upon evidence obtained that any of the provisions of this act are being violated, the state dairy bureau, through its agent and secretary, or its assistant agents, shall duly enter complaint against the party or parties, responsible for such violations and cause the same to be prosecuted, except in cases where any dairy, creamery or other factory of milk products or store or depot where milk and its products are handled and sold, is found to be in an unsanitary condition, in which case the agent and secretary, or the assistant agent, for the district in which the violation occurred, shall serve upon the owner, or owners, or person in charge of the dairy, creamery or other factory of milk products so found to be in an unsanitary condition, a written notice specifying in detail such changes that are to be made that will place such dairy, creamery, or other factory of milk products or store or depot in a sanitary condition as defined in this act. Should such changes not have been made at the expiration of thirty days after the date when the notice was served, the state dairy bureau, through its agent and secretary, or its assistant agents, shall enter complaint against the person or persons responsible for such unsanitary conditions and cause them to be prosecuted for violating this act.

§ 8. The state dairy bureau is authorized under this act to gather and compile statistics relative to the dairy industry and to disseminate the same and other information useful to, and to the general good and development of the dairy industry of the state.

§ 9. Whenever any agent or inspector of the state dairy bureau shall discover the existence of any contagious or infectious disease among dairy cattle, or have good reason to believe that such disease may exist the same shall be immediately reported to the state veterinarian.

§ 10. Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars or by imprisonment in the county jail for a period of not less than ten days nor more than one hundred days, or by both such fine and imprisonment. Any person or persons who shall hinder or prevent an agent or inspector of the state dairy bureau, in the performance of his duty under this act, shall likewise be deemed guilty of a misdemeanor, and upon conviction, shall be fined as already provided in this act. One half of all fines imposed for the violation of this act shall be paid to the state dairy bureau which shall pay the same to the state treasurer and the same shall become a part of the appropriation under this act. The remaining one half of such fine shall be paid to the county in which the fine is imposed.

§ 11. It shall be the duty of the district attorney, upon application of the state dairy bureau, through its agent and secretary, or assistant agents to attend to the prosecution, in the name of the people, of any suit brought for the violation of any of the provisions of this act within his district.

§ 12. There is hereby appropriated for the use of the state dairy bureau in enforcing and carrying out the provisions of this act, out of any money in the state treasury not otherwise appropriated, the sum of one thousand five hundred dollars (\$1,500) for the remainder of the fifty-sixth fiscal year; five thousand dollars (\$5,000) for the fifty-seventh fiscal year and five thousand dollars (\$5,000) for the fifty-eighth fiscal year. All salaries, fees, costs and expenses shall be drawn from the money so appropriated, and the state controller shall draw his warrant on the state treasury in favor of the person or persons entitled to the same.

§ 13. An act approved March twenty-two, eighteen hundred and ninety-nine, entitled "An act to provide for the inspection of dairies, factories of dairy products, and of dairy products as to their sanitary condition, and as to the health of stock; to prevent the sale of milk and products of milk drawn from diseased animals; to prevent the spread of infectious and contagious diseases common to stock, and to appropriate money therefor," and all other acts or parts of acts inconsistent with this act are hereby repealed.

§ 14. This act shall take effect thirty days after its passage.

See tits. **Butter, Deception in; Dairies, Inspection of.**
See also note ante p. 99.

DAY OF REST.

To provide for a day of rest from labor.

(Stats. 1893, 54, ch. XLI.)

§ 1. Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven; and it shall be unlawful for any employer of labor to cause his employees, or any of them to work more than six days

in seven; provided, however, that the provisions of this section shall not apply to any case of emergency.

§ 2. For the purposes of this act, the term day's rest shall mean and apply to all cases, whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

§ 3. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor.

§ 4. This act shall take effect and be in force thirty days from and after its passage.

DEAF, DUMB AND BLIND.

Establishing an industrial home of mechanical trades for the adult blind of the state of California, creating a board of directors for the government thereof, and appropriating the sum of sixty-five thousand dollars for the support of said home.

(Stats. 1887, 160, ch. CXLVIII; amended 1889, 147, ch. CXXXVII.)

ARTICLE I.

§ 1. The sum of sixty-five thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to be placed by the state controller to the credit of the fund hereafter to be known and designated as "The Fund of the Industrial Home of the Adult Blind," and to be expended for the objects and in the manner hereinafter specified.

§ 2. The said appropriation is for the purpose of teaching and supporting the adult blind that may be admitted to the "home," and for providing the material for the workshops, the cost of additional machinery for the same, the payment of all persons employed at the home, and for all legitimate expense of maintaining the institution hereinbefore named.

§ 3. All moneys drawn from this fund shall be drawn only when bills have been ordered paid by the board of directors of the home, and approved in writing by the state board of examiners; and, when so approved, the state controller must issue his warrant in payment thereof, and the state treasurer must pay the same.

§ 4. The governor of the state shall appoint five citizens of the state, who shall organize as and constitute the board of directors for the Home for Adult Blind.

§ 5. The home shall be located at such a place as the board of directors may designate.

ARTICLE II.

§ 1. The objects of the industrial home are: First, to instruct the adult blind that may be admitted as inmates in some trade or trades, in order to enable them to contribute to their own support; and, second, to furnish a working home for the adult blind, who, after having learned a trade or trades, desire to remain at the home as workmen; provided, that all of the latter class who remain shall pay to the state, through the board of directors, the cost of their maintenance at the home. The rate of wages to be paid to these journeymen, as well as the amount which they must pay for their maintenance, shall be fixed by the board.

§ 2. Every blind person who has been a resident of this state for the period of three years prior to his application for admission, of suitable age, character, and qualifications (as hereinafter provided) shall be entitled to the benefits of instruction in said home free of charge; provided, that the board of directors may admit blind persons from other states; but the admission of such blind persons shall be made under such conditions only as shall not entail cost on this state, and provided further, that the admission of persons not residents of this state shall in no case be allowed, if such admission would exclude a qualified blind resident of this state.

§ 3. The salaries of the superintendent, secretary and physician, and all other expense accounts, including the wages of workmen at trades, and employees, must be paid monthly out of the moneys appropriated by the legislature for the support of the home, or from accumulations from the industries of the home, or from donations and bequests to the home, made without restraining conditions, whenever resort to said donations or bequests be necessary. All such claims in said expense account, excepting salaries of said officers, shall be first approved by the board of directors, and shall be so indorsed by the secretary and attested by the president, and shall immediately thereafter be sent forward to the secretary of the state board of examiners. When the claims have been approved by the said board of examiners, the controller must issue his warrant therefor, directed to the state treasurer, in favor of the board of directors. The state treasurer is authorized to pay such warrant only when indorsed by the secretary, and attested by the president of the board. No claim for wages of employees or workmen at trades shall be audited by the board of directors until having first received from the foreman his monthly time certificate, duly verified by his oath, and stating the amount of labor performed by the employee or workman. [Amendment, Stats. 1889, 147.]

§ 4. The official bonds hereinafter required must be approved by the board of directors, and filed and recorded in the office of the secretary of state. The approval of the bond must be by indorsement thereon by the president, and reference thereon made by the secretary to said action of the board.

ARTICLE III.

§ 1. The powers and duties of the board of directors shall be as follows:

First—To make by-laws, not inconsistent with the provisions of this act and the laws of this state, for their own government and the government and direction of the home, and to admit suitable persons as inmates thereof. And in the admission of inmates the board of directors shall have regard to an equitable representation from each county in the state.

Second—To designate the trades that shall be regularly taught in the said institution.

§ 2. First—To elect a general superintendent and all subordinate officers and employees, and to determine the number of subordinate officers and employees when not otherwise fixed in this act.

Second—To elect a physician who shall not be a member of the board of directors, and whose salary shall not exceed twelve hundred dollars per annum.

Third—To elect a secretary, whose salary shall not exceed six hundred dollars

per annum, and who shall be required to give a bond in the sum of five thousand dollars. [Amendment, Stats. 1889, 147.]

§ 3. To prescribe in particular the duties of the superintendent, physician, and secretary.

§ 4. To make inquiry into the department of labor and expense, the condition of the home and its prosperity, and to employ all reasonable means to make the same self-supporting.

§ 5. To hold stated meetings at the home at least once in every month.

§ 6. To keep at the home a record of their proceedings which shall be accessible to the public during the hours from nine a. m. to four p. m., excepting on legal holidays.

§ 7. To report annually in the month of December, to the governor, a statement of receipts and expenditures, the condition of the home, the number of the inmates, and the number of beneficiaries doing work at their own residences, and such other matters touching the management of the home as they may deem proper. The annual report must be verified by the oath of the president of the board of directors. The superintendent of state printing is hereby authorized to print annually two thousand copies of said report, which copies the board must circulate in the manner appearing to them to be in the best interests of the home.

§ 8. The board of directors is empowered to purchase, from time to time, such material as may be suitable to the requirements of the manufacturing and other departments of the home, and to audit the bills therefor, and to forward the same to the state board of examiners. When approved by said state board, the controller must issue his warrants in payment thereof. All purchases shall be made as provided in section twenty of this article.

§ 9. The board of directors is empowered and authorized to fix the market price of all wares manufactured in the home, and all wares manufactured elsewhere by the non-resident beneficiaries, and to provide for and regulate the sale of all such manufactured wares. The board is hereby authorized to fix the compensation of common laborers and all other employees at the home, whose wages are not herein established.

§ 10. It shall not be a condition for the admission of any applicant that he be of such physical strength as to be able to work every day. And the board is authorized to receive and maintain at the home, free of charge, or at a nominal charge, such aged and enfeebled blind persons as seem to them proper, and not in conflict with the interests of the home.

§ 11. The board of directors is authorized and empowered to grade and fix the prices of skilled and unskilled labor. The board may fix the amount of work required in the various departments to constitute a day's labor, and, in accordance with such regulations, may permit inmates to work at piece-work.

§ 12. The board of directors may authorize work to be let out to blind people, so that such beneficiaries as in their judgment may require it, shall receive it at their residence; and for such piece-work liberal prices shall be paid, so as to equal, as nearly as possible, the compensation of resident laborers. But in no case shall the board incur any indebtedness for labor contracts with beneficiaries, resident or otherwise, except when there is sufficient money on hand to pay the same.

§ 13. The board shall provide dormitories for males and females in separate apartments, and may prescribe conditions, not inconsistent with the provisions of this act, for the admission of applicants.

§ 14. The directors shall receive no compensation for their services.

§ 15. The board of directors of the Industrial Home of Mechanical Trades for the Adult Blind of the State of California is hereby authorized and empowered to take, receive, manage, and invest all moneys or property hereafter bequeathed or donated to said home, in accordance with the wishes of the testator or donor; or, if no conditions are attached to the bequests or donations, then to invest such moneys or proceeds of property for the best interests of the home; provided, that if any donation or bequest be trammelled with any religious conditions of a sectarian character, or conditioned in any manner antagonistic to the provisions of this act, or in conflict with any necessary rule or regulation of the home, the board may refuse to accept such donation or bequest, and is hereby authorized to reject the same. Donations or bequests may be received by the state treasurer, or by the president of the board of directors; but no donations or bequests accompanied by any condition shall be received until such donation or bequest shall have been ordered approved and received by the board, and notice thereof given by the secretary to the state controller. Any bequest or donation received or collected by the president of the board must be immediately paid over by him to the state treasurer, and at the same time the president must forward to the state controller a statement thereabout verified by his oath. All moneys received by the state treasurer must be placed to the credit of the "Fund of the Industrial Home of Adult Blind." The investment of funds by the board can be made only in the same manner as the approval of claims, subject likewise to the action of the state board of examiners thereon.

§ 16. It shall be the duty of the president of the board to make careful and diligent inquiry into the general management of the home, and to report the result thereof at each meeting of the board, together with such recommendations as he may wish to make concerning the management of the home.

§ 17. Every officer and employee of the home, and any other person acquiring possession, by any means whatever, of moneys belonging to the home, must, at the close of each and every month, deliver the same to the board of directors, accompanied by a statement thereabout, verified by his oath, taking the secretary's receipt therefor. The board of directors must, at least once in every month, forward to the state treasurer all moneys in their charge belonging to the home. The secretary of the board must at the same time forward to the state controller a statement thereabout, verified by his oath. All such moneys received by the state treasurer must be placed to the credit of the "Fund of the Industrial Home of Adult Blind."

§ 18. Immediately upon the election or dismissal of any officer, whose salary is fixed by the provisions of this act, the board must cause the secretary to forward to the controller of state a certified copy of the resolution of said election or dismissal, which the controller must file in his office.

§ 19. The president of the board shall appoint all committees unless otherwise ordered by the board, and he shall be *ex officio* a member of each of the standing committees.

§ 20. The board of directors are authorized and required to contract for provisions, fuel, and all other supplies needed for any period of time not exceeding one year; and such contracts shall be limited to bona fide dealers in the several classes of articles contracted for. Such contracts shall be given to the lowest responsible bidder, at a public letting thereof, if the price bid is fair and not greater than usual market prices. Each bid shall be accompanied by such security as the board shall require. Notice of the time, place, and letting of each contract shall be given for at least two consecutive weeks in a daily paper published in the city of San Francisco, and in one newspaper published in the city or town where the home is located. If all the bids at any letting are deemed by the board unreasonably high, the board may decline to contract, and may again advertise for proposals, and so continue to renew the advertisement until satisfactory contracts are made; and in the meantime the board may contract with any person whose contract is just and equitable, but no contract thus made shall extend beyond sixty days. No bid shall be accepted when such bid is higher than any other bid, made at the same letting, for the same class or schedule of articles. When two or more bids are equal in amount, the board may divide the contract between the bidders.

§ 21. The board shall designate the number of employees, prescribe their duties, and fix their compensation. All employees shall be appointed by the superintendent, subject to the approval of the board.

ARTICLE IV.

The superintendent shall be the chief executive officer of the home, with duties and powers as follows:

First—To superintend the grounds, buildings, workshops, manufacturing departments, and property of the home.

Second—To certify to the board of directors the number of instructors and employees needed in the manufacturing departments, and to recommend to the board the appointment of suitable persons for these positions.

Third—To dismiss any domestic, servant, or person employed at the home—other than an instructor or an employee in the manufacturing department—whenever in his judgment the good of the home demands it.

Fourth—To prescribe and enforce the duties of all instructors, employees, domestics, servants, and laborers employed at the home.

Fifth—To admit inmates only upon the certificate of the attending physician, or by order of the board, as hereinafter provided; to control the inmates, and to prescribe and enforce a system of instruction and labor.

Sixth—To suspend any instructor or employee pending a recommendation to the board for his permanent dismissal, and to appoint substitutes during the absence of any or all employees.

Seventh—Pending a recommendation to the board for his final dismissal, to suspend the privileges of and to remove from the premises any inmate whose presence appears to be in conflict with the interests of the home. Should any inmate so suspended or removed be in destitute condition, the superintendent must, upon his demand, furnish him with suitable lodgings and board elsewhere, until the decision of the board is made thereabout. The bill therefor must be presented to the board for payment in the same manner as other claims.

Eighth—To reside at the home.

Ninth—To keep a daily record of his official acts in the manner prescribed by the board, and to present the same to the board at each monthly meeting, verified by his oath, in accordance with the blanks furnished by the board for that purpose, and to make in said monthly reports such recommendations to the board as he may deem proper. The monthly report must contain a statement of all stock, goods, and supplies of any nature received at the home during the month.

Tenth—To turn over to the board, at the close of each and every month, together with the balance sheet, all moneys derived by him from the sale of manufactured goods, and all revenues derived by him from any source whatsoever in behalf of and for the benefit of the home, and to take the secretary's receipt therefor.

Eleventh—To make up and present to the board, in the month of July of each year, his annual accounts and statement of the affairs of the home, verified by his oath. The annual statement shall be an epitome of the monthly reports, and shall contain the number and names of all inmates, officers and employees, and their respective dates of admission, or beginning of employment, and the respective dates of dismissals made during the year. It shall contain a full review of all receipts and expenditures, and an invoice of all goods and stock and supplies on hand. It shall contain, also, the average weekly cost of board per capita of all persons residing at the home, without considering the labor credits, and the average annual cost of instruction per capita. It shall show clearly the relation of the gross products to the gross cost, and the percentage lacking in order to become self-supporting. For the making up of said statement, the superintendent shall have full access to the secretary's and other books of the home, and said statement shall be independent of each and all of the other annual reports.

Twelfth—To make requisitions on the board of directors for articles and goods needed at the home, and to order the same as directed by the board; provided, that the board may, by resolution spread upon its minutes, authorize the superintendent, in case of emergency, to make purchase of material and supplies for the home without such previous requisition. He must, in addition, perform such further services as may be required of him by the board. The annual salary of the superintendent shall be twenty-one hundred dollars. He must execute an official bond in the sum of five thousand dollars. The superintendent must be a man of good education, of good moral character, and business experience.

ARTICLE V.

It shall be the duty of the physician to examine at his office, at the stated hour daily, and at the home, at a stated hour upon the days of his visits, all applicants for admission, as to their blindness. If the applicant appears to be a proper subject for admission to the benefits of the home, the physician must forthwith deliver to him his certificate of admission, directed to the board and also to the superintendent of the home. Upon presentation of the certificate the superintendent must admit the applicant as a beneficiary. Any applicant rejected by the attending physician shall have the right of appeal to the board. The physician must present to the board, monthly, a statement of the sanitary condition of the home, and must therein specify the days and dates of his visits, and the ages and nativity of each person to whom he has issued during the month

a certificate of admission, together with the cause or causes of their blindness, their physical condition, and also as to whether any such inmates would be benefited by medical treatment as well as any other matters which the board may deem proper to require of him. The monthly statements must be made upon blanks furnished by the board for that purpose. He must present to the board, in the month of July, his annual report, which shall be an epitome of his monthly reports, and in which he must specify, with particularity, all sickness at the home during the year; and such observations and recommendations may be therein made as seem to him pertinent to the sanitary welfare of the home. The attending physician must, in no instance, permanently treat any inmate for blindness, or any optical affection, without permission in each case first being given by the board, at the request of the person so afflicted. The attending physician must visit the home once every day.

ARTICLE VI.

This act shall take effect from and after its passage.

This asylum was established by Stats. 1860, 211, ch. CCXLVI; several acts followed, including 1885, 18, ch. XIX, now superseded. Important provisions on same subject have been incorporated in the Political Code. See §§ 333, 334, 368, 713 and 2238 to 2270 inclusive. Also see next following act, relating to gifts to this institution.

DEAF, DUMB, AND BLIND—GIFTS TO.

To confer certain powers upon the directors of the Deaf, Dumb, and Blind Asylum.

(Stats. 1875-6, 686, ch. CCCCLXVI.)

§ 1. The directors of the Deaf, Dumb, and Blind Asylum are hereby authorized and empowered to take, receive, manage, and invest all moneys and property heretofore or hereafter bequeathed or donated to the said asylum, in accordance with the wishes of the testator or donor, or if no conditions are attached to the bequests or donations, to invest such moneys or proceeds of property for the best interests of the asylum.

§ 2. This act shall take effect on and after its passage.

DEBRIS COMMISSIONER—APPOINTMENT.

To provide for the appointment, duties, and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner.

(Stats. 1893, 339, ch. CCXXVIII; amended 1897, 169, ch. CXIII; amended 1901, 284, ch. CXXI; amended 1901, 564, ch. CLXXIV; amended 1905, ch. CXLIII.)

§ 1. The governor of the state of California shall, on or before the first day of May, nineteen hundred and five, appoint a competent civil and mining engineer for a period of four years only, to be known as and called the state debris commissioner. [Amendment, Stats. 1905.]

§ 2. Said commissioner shall receive as full compensation for his services an annual salary of six hundred dollars, payable monthly out of the state treasury in like manner as the salary of other state officers, and his necessary traveling

expenses while actually engaged in the discharge of his duties, to be allowed by the state board of examiners. [Amendment, Stats. 1901, 564.]

§ 3. It shall be the duty of the said debris commissioner to consult and advise with the members of the corps of engineers of the United States army comprising the California debris commission (created by act of Congress approved March first, eighteen hundred and ninety-three), in relation to the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosion, or other causes; and it shall be his duty to examine such works, and to report the result of such examination to the state board of examiners. Said debris commissioner is further authorized and directed to consult and advise with said "California Debris Commission" in relation to any and all plans and specifications that may have been, or may hereafter be prepared or adopted by said "California Debris Commission," for the construction of such restraining or impounding works, and said debris commissioner shall submit a copy of all such plans and specifications to the state board of examiners for their examination and consideration, together with his approval or disapproval thereof, or other recommendation with reference thereto.

The state board of examiners shall thereupon proceed to examine and consider the plans and specifications thus submitted to them, and in that behalf may require the attendance, counsel, and advice of said debris commissioner, during their examination and consideration thereof. The state board of examiners shall keep a record of their deliberations and shall either approve or disapprove said plans and specifications, which approval or disapproval may be by a majority vote of said board; provided, that no plans and specifications involving an expenditure on the part of the state of California of a sum greater than the appropriation herein made shall be approved.

If said plans and specifications be approved by the state board of examiners, the said debris commissioner shall thereupon report such action to said "California Debris Commission."

Whenever said "California Debris Commission" or the government of the United States shall have entered into any contract for the construction of works for the purposes described in this act, in pursuance of plans and specifications that have been theretofore approved by the state board of examiners as in this act provided, it shall then be the duty of the debris commissioner to carefully inspect such works during the process of their construction and to keep a record of the result of such inspection and to report the same monthly to the state board of examiners. Said debris commissioner shall also from time to time, during the process of the construction of such works, when requested so to do by the said "California Debris Commission," draw his warrants upon the state controller in favor of such person or persons as may be designated by said "California Debris Commission" for such amounts as shall equal one half of the cost of the construction of said works; and said debris commissioner shall, in like manner, and when requested so to do by said "California Debris Commission," draw his warrant upon the state controller for an amount equal to one half the purchase price of any site or sites necessary for the construction of said works; provided, that the purchase of such site or sites shall have been first approved by the state board of examiners; and provided further, that no warrant shall be drawn in excess of the amount appropriated by this act. [Amendment, Stats. 1897, 169.]

§ 4. There is hereby appropriated out of the general fund of the treasury of this state not otherwise appropriated, the sum of two hundred and fifty thousand dollars, to be used in the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosion, or other causes, and for the purchase of sites therefor. The appropriation made by this section is intended as a reappropriation of the sum of two hundred and fifty thousand dollars appropriated by the act entitled "An act to provide for the appointment, duties, and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and it is expressly intended and provided by this act that the state of California shall, in no event, incur any liability hereunder beyond the amount of the appropriation herein made; and no contractor, claimant, or person shall acquire any right or obligation against the state of California beyond said sum so appropriated and set apart for the purposes hereinabove set forth and it is expressly declared that any claim or demand against the state of California in excess of said appropriation shall be invalid and void. Said moneys shall be paid only upon orders drawn by the state controller upon the written request of said debris commissioner, as in this act provided. [Amendment, Stats. 1897, 169.]

§ 5. The term of office of said debris commissioner shall be four years from the date of his appointment. He shall take the same oath of office as is provided by law for other state officers, and before entering upon the discharge of his duties shall give bond, with sufficient sureties, to be approved by the governor of the state, in the sum of fifty thousand dollars, for the faithful discharge of his duties as such officer.

§ 6. [Repealed. Stats. 1901, 564.]

§ 7. All expenditures authorized by the provisions of this act shall be subject to the approval of the state board of examiners; and the state controller is hereby authorized to draw his warrant for all expenditures not in excess of the appropriation herein provided for so approved by the state board of examiners, and the state treasurer is hereby directed to pay the same. [Amendment, Stats. 1897, 169.]

See next two succeeding acts.

DEBRIS COMMISSIONER—TITLE TO LANDS.

To provide in whose name title shall be taken to the site or sites for the construction of the works provided for in the act of the legislature of the state of California entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and the amendments thereto.

(Stats. 1901, 282, ch. CXVIII.)

§ 1. The title, estate and interests in all sites purchased under the act of the legislature of the state of California entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appro-

priation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and the amendments thereto, for the construction of the works in said acts contemplated, shall be taken in the name of the government of the United States of America.

§ 2. This act shall take effect immediately.

DEBRIS COMMISSIONER—APPROPRIATION.

To appropriate the sum of one hundred and fifty thousand dollars to be used in the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosions and other causes, and for the purchase of sites therefor, and to provide for the manner of expending such appropriation.

(Stats. 1901, 7, ch. XIV.)

§ 1. There is hereby appropriated out of the general fund of the treasury of this state not otherwise appropriated, the sum of one hundred and fifty thousand dollars, to be used in the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosions, and other causes, and for the purchase of sites therefor; said sum to be expended in the manner, and subject to the conditions set forth in that certain act entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, including all amendments to said last-named act; provided, however, that said sum of one hundred and fifty thousand dollars shall not become available, nor shall any warrant be drawn against the same prior to the beginning of the fifty-fourth fiscal year; and provided further, that in no event shall said sum of one hundred and fifty thousand dollars, or any part thereof, become available, or any warrant be drawn against the same, until the United States government shall have appropriated for the purposes above named at least an equal amount, to wit, one hundred and fifty thousand dollars, in addition to any sum or sums heretofore appropriated by the United States government for such purposes.

§ 2. This act shall take effect and be in force from and after its passage.

DENTISTRY.

To insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the state of California, providing penalties for the violation hereof, and to repeal an act now in force relating to the same and known as "An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the state of California, approved March twelfth, eighteen hundred and eighty-five."

(Stats. 1901, 564, ch. CLXXV; amended 1903, 322, ch. CCXLIV; sec. 11 repealed, Stats. 1905, 430, ch. CCCLIX.)

§ 1. It shall be unlawful for any person to engage in the practice of dentistry in the state of California, unless said person shall have obtained a license from

a board of dental examiners, duly authorized and appointed under the provisions of this act to issue licenses; provided, that this act shall not affect the right under the laws of the state of California, of dentists to practise dentistry who have lawful right to practise dentistry at the time of the passage of this act.

§ 2. A board of dental examiners to consist of seven (7) reputable and ethical practising dentists is hereby created, to be known as the board of dental examiners of California, whose duty it shall be to carry out the purposes and enforce the provisions of this act. The members of this board shall be appointed by the governor of California, all of whom shall have been actively and legally engaged in the practice of dentistry in the state of California, for at least five (5) years next preceding the date of their appointment, and none of whom shall be members of the faculty of any dental college, or dental department of any medical college, in the state of California, or shall have any financial interest in any such college. The said seven (7) shall compose the board of dental examiners of California. The term for which the members of said board shall hold office shall be four (4) years, except that two of the members of the board first to be appointed under this act, shall hold their term of office for the term of one year, two for the term of two years, two for the term of three years, and one for the term of four years, and until their successors are duly appointed and qualified. In case a vacancy occurs in the membership of said board, such vacancy shall be filled by appointment by the governor, within thirty (30) days after such vacancy occurs.

§ 3. It shall be the power and duty of said board to organize by the election of one of its members president, another secretary, and another treasurer; to meet at least twice each year, at such time and place as the board may designate, for the purpose of transacting the business of the board, and at such other times as the board may elect, or on the call of the president of the board, or of not less than four (4) members thereof. A written notice of the time, place and object of such called meeting to be mailed by the secretary of said board to all the members thereof not parties to the call, at least fifteen (15) days before the day of meeting; to examine all applicants for licenses to practise dentistry according to the provisions of this act; to collect and apply all fees as directed by this act; to keep a book showing the names of all persons to whom licenses have been granted by said board to practise dentistry, and such other books as may be necessary to plainly show all the acts and proceedings of said board; to have and to use a seal bearing the name "Board of Dental Examiners of California."

§ 4. Out of the funds coming into the possession of the board, each member of said board may receive as compensation ten dollars (\$10.00) for each day actually spent in attending to the duties of his office, and mileage at the rate of five cents (\$.05) per mile for all distances actually traveled in going to and coming from the meetings of the board. Said expenses shall be paid from the fees and fines received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the state treasury.

§ 5. Each member of the board shall, upon his qualification and the organization of the board, file with the secretary, his post-office address, and thereafter

any notice of any change therein. Any notice sent to the address so on file, shall be deemed to comply with the requirements of this act as to notice to them.

§ 6. All books of said board shall be of public record and at all times during business hours open to public inspection. A certified copy of any part or all thereof shall be primary evidence in any court of this state. The original books shall be kept in the office of the secretary of said board, wherever he may reside, and he shall furnish to any person making application therefor a copy of any part thereof, upon the applicant paying a fee of twenty-five cents (\$.25) per hundred words so copied, the said fee to belong to the secretary. All copies shall be certified by the secretary.

§ 7. The governor shall have the power to remove from office at any time, any member of the board for continued neglect of duty required by this act, or for incompetency, unprofessional or dishonorable conduct.

§ 8. Said board shall examine all applicants for examination who shall furnish satisfactory evidence of having complied with the provisions of this act, relating to qualification for examination, and all persons satisfactorily passing such examinations shall be granted by said board a license to practise dentistry in the state of California.

The examination of applicants shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practise dentistry. It shall include, written in the English language, questions on the following subjects: Anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, operative and prosthetic dentistry, hygiene and dental jurisprudence. The answers to which shall be written in the English language. Demonstrations of the applicant's skill in operative and prosthetic dentistry must also be given. All persons successfully passing such examinations shall be registered as licensed dentists on the board register, as provided in section three, and shall also receive a certificate of such registration; said certificate to be signed by the president and secretary of said board. In no case shall any applicant be examined or given a certificate who is not twenty-one years of age.

§ 9. Any member of the board may inquire of any applicant for examination concerning his character, qualifications or experience, and may take testimony of any one in regard thereto, under oath, which he is hereby empowered to administer.

§ 10. Every person now licensed to practise dentistry in this state, who has failed to register his license with the clerk of the county wherein his place of business is located, as provided by law, must register the same within sixty days after this act takes effect, and every person who shall hereafter be licensed to practise dentistry in this state, shall within six months thereafter register in the office of the clerk of the county where his place of business is located, in a book kept by the clerk for such purpose, and called a register of dentists, his name, age, office address, the date and number of his license to practise dentistry and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license or a copy thereof certified by the secretary of the board over its seal, and making an affidavit stating his name, age, birthplace, the number of his license and the date of its issue; that he is the

identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the board of dental examiners as to the terms and the amount of study and examination; that no money other than the fees prescribed by this statute and said rules, was paid directly or indirectly for such license, and that no fraud, misrepresentation or mistake in a material regard was employed or occurred in order that such license should be conferred. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and license may be offered as primary evidence in all courts of the facts therein stated. A copy of such certificate of registration shall be sent by the county clerk to the secretary of the board within five (5) days after it is made. The county clerk's fees for taking such registration and affidavit and issuing such certificate of registration shall be one (1) dollar. A practising dentist having registered a lawful authority to practise dentistry in one county of the state, and removing such practice or part thereof to another county shall show or send by registered mail to the clerk of such other county his certificate of registration. If such certificate clearly shows that the original registration was of an authority issued by the board of dental examiners, or if the certificate or registration itself is indorsed by the secretary of the board of dental examiners as entitled to registration, the clerk shall thereupon register the applicant in the register of dentists of the latter county on receipt of a fee of fifty (50) cents, and shall stamp or indorse on such certificate of registration the date and his name preceded by the words "Registered also in ——— County," and return the certificate of registration to the applicant. Any lawfully registered person who shall thereafter change his name according to law shall register the new name with a marginal note of the former name with the clerk of the county or counties where he is practising. The clerk shall note upon the margin of his former registration in ink the fact of such change, and a cross reference to the new registration. The clerk shall forthwith notify the secretary of the board of such change. Any county clerk who knowingly shall make or suffer to be made upon the register of dentists kept in his office any entry other than that provided for in this act, shall be liable to a penalty of fifty dollars to be recovered by and paid to the said state board of dental examiners in a suit in any court having jurisdiction. Any failure, neglect or refusal on the part of any person holding such license to register the same with the clerk of said county as above directed for a period of six months after the issuance thereof shall ipso facto work a forfeiture of his license, and it shall not be restored except upon the payment to said board of twenty-five (25) dollars. Any suspension, revocation or reinstatement of a license shall with the date thereof be forthwith noted by the county clerk on the margin of the registration thereof upon receipt of notice from the secretary of the board. [Amendment, Stats. 1903, 322.]

§ 11. [Repealed.]

§ 12. No person shall be eligible for examination by the state board of dental examiners who shall not furnish satisfactory evidence of having graduated from a reputable dental college, which must have been indorsed by the board of dental examiners of California; or who shall not have graduated from a high

school or similar institution of learning, in this or some other state of the United States, requiring a three years' course of study, and who cannot furnish to the board of dental examiners an affidavit, containing his or her name, the name of his or her preceptor, and the names of at least two reputable witnesses, certified to in the state of California before a notary public, showing that he or she has completed an apprenticeship of four years of twelve months each, with a licensed practitioner of dentistry, in the state of California, or cannot furnish to said board of examiners a certificate from the state board of dental examiners, or similar body, of some other state in the United States, showing that he or she has been a licensed practitioner of dentistry in that state for at least five (5) years. [Amendment, Stats. 1903, 324.]

§ 13. From and after the passage of this act any and all persons desiring to enter upon the practice of dentistry in the state of California, without graduating from a reputable college in the United States, or producing satisfactory evidence of having been a licensed practitioner of dentistry in some other state for at least five years, must file with the board of dental examiners an affidavit certified to before a notary public of the state of California, of his intention to begin an apprenticeship with a licensed practitioner of dentistry in this state, and the said affidavit must certify that the affiant has regularly graduated from a high school or similar institution of learning in the United States, as provided in section twelve of this act, and contain in full, the names of both affiant and his proposed preceptor and the names of two reputable witnesses, together with the date of beginning of his proposed term of apprenticeship; and the board of dental examiners shall issue to affiant a receipt for same.

§ 14. Every person applying to the board of dental examiners for a license to practise dentistry shall pay to the board a fee of twenty-five (25) dollars, which shall in no case be refunded. Every licensed dentist shall on or before the first day of May of each year, except the one in which he is licensed, pay to the secretary of the board of dental examiners a fee of two (2) dollars, which shall be used exclusively for the prosecution of violators of this act and for expenses of collecting said fee. The year for which a fee shall be paid shall begin the July first following the May when it becomes due and end the succeeding June thirtieth. The board may reduce or remit altogether said fee for any year, but such reduction or remission must be made alike to all liable to pay the same. In case any person defaults in paying said fee, his license may be revoked by the board of dental examiners on thirty days' notice in writing from the secretary, unless within said time said fee is paid, together with such penalty not exceeding ten (10) dollars, as the board may impose. Upon payment of said fee and penalty the board shall reinstate the delinquent's license. On or before the first day of July of each year the secretary of the board shall send to the county clerk of each county in the state a certified list of all practising dentists therein who have paid said fee, and the clerk shall enter or paste the same in the register of dentists. Necessary expenses per diem compensation and mileage of the members of the board incurred while in attendance on meetings not for prosecuting violators of this act shall be paid out of the other fees and fines provided for in this act. All moneys received under this act shall be deposited in some reliable bank in the name of the board, and shall be with-

drawn only on the joint check of the president and the secretary of the board. [Amendment, Stats. 1903, 324.]

§ 15. Any and all persons shall be understood to be practising dentistry within the meaning of this act who shall for a fee, salary, or reward, paid directly or indirectly, either to himself or to some other person, perform operations of any kind upon, or treat diseases or lesions of the human teeth or jaws, or correct malimposed positions thereof, or display a sign, or in any way advertise himself as a dentist; but nothing in this act contained shall prohibit bona fide students of dentistry from operating in the clinical departments or the laboratory of a reputable dental college, or an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory; or the student of a licentiate from assisting his preceptor in dental operations while in the presence of and under the personal supervision of his instructor; or a duly licensed physician from treating diseases of the mouth, or performing operations in oral surgery. But nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed persons under cover of the name of a regular practitioner of dentistry. [Amendment, Stats. 1903, 325.]

§§ 16, 17, 18. Repealed. [Amendment, Stats. 1903, 325.]

§ 19. Any person, company or association shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable with a fine of not less than fifty (50) dollars or more than five hundred (500) dollars, or by imprisonment for not less than five (5) days nor more than six (6) months in the county jail, or by both fine and imprisonment, who

1. Shall sell or barter, or offer to sell or barter, any diploma or document, conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or

2. Shall purchase or procure by barter, any such diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualification to practise dentistry, or in fraud of the laws regulating such practice; or

3. Shall with fraudulent intent, alter in a material regard any such diploma, certificate or transcript; or

4. Shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practise dentistry, or in order to procure registration as a dentist; or

5. Shall practise dentistry under a false or assumed name; or

6. Shall assume the degree of "doctor of dental surgery" or "doctor of dental medicine," or shall append the letters "D. D. S." or "D. M. D." to his or her name, not having duly conferred upon him or her, by diploma from a recognized dental college or school legally empowered to confer the same, the right to assume said title; or shall assume any title, or append any letters to his or her name, with the intent to represent falsely that he or she has received a dental degree or license; or

7. Shall in an affidavit, required of an applicant for examination, license or registration, under this act, wilfully make a false statement in a material regard; or

8. Shall engage in the practice of dentistry under any title or name without causing to be displayed in a conspicuous manner and in a conspicuous place in his or her office the name of each and every person employed in the practice of dentistry therein, together with the word mechanic or apprentice after the name of each unlicensed person employed; or

9. Shall within ten days after demand, made by the secretary of the board, fail to furnish to said board the name and address of all persons practising or assisting in the practice of dentistry in the office of said person, company or association, at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person, company or association and said employee are and have been practising dentistry, but said affidavit shall not be used as evidence against such person, company or association in any proceeding under this section; or

10. Is practising dentistry in the state without a license, or whose license has been revoked or suspended. [Amendment, Stats. 1903, 325.]

§ 20. It is hereby further provided, that the conferring of degrees and the bestowing of diplomas, by reputable dental colleges of this state, who have been indorsed by the board of dental examiners of California, and are members of the National Association of Dental Faculties, are not included in the foregoing penalties, nor shall their rights and prerogative ever be abridged in any manner whatsoever.

§ 21. All fines, penalties or forfeitures, not including the examination fee, imposed or collected for the violation of any of the foregoing provisions of this act, unless otherwise specified, shall be paid as follows: One half into the common-school fund in the county in which the prosecution is had, and one half to the treasurer of this board, to be turned into the regular funds of this board, and it shall be the duty of the county treasurer of each county, upon the receipt by him of any such fines, penalties or forfeitures, to forthwith pay over the same one half to the treasurer of this board. Said board, or any member or officer thereof, may prefer a complaint for violation of the law regulating the practice of dentistry, before any court of competent jurisdiction, and may by its officers, counsel and agents, aid in presenting the law or facts before said court, in any proceeding taken thereon; and it shall be the duty of the district attorney of each county of this state, to prosecute all violations of the aforesaid provisions of this act in their respective counties in which such violations occur.

§ 21½. Any dentist may have his license revoked or suspended by the board of dental examiners for any of the following causes:

1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court, or by the judge in whose court the conviction is had, shall be conclusive evidence.

2. For unprofessional conduct, or for gross ignorance, or inefficiency in his profession. Unprofessional conduct shall mean employing what are known as cappers, or steerers to obtain business; the obtaining of any fee by fraud or misrepresentation; wilfully betraying professional secrets; employing directly or indirectly any student or any suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malimposed formations thereof, except as heretofore provided in section fifteen;

the advertisement of dental business or treatment or devices in which untruthful, improbable or impossible statements are made; or habitual intemperance or gross immorality. The proceedings to revoke or suspend any license under the first subdivision of section twenty-one and one half must be taken by the board on the receipt of a certified copy of the record of conviction. The proceedings under the second subdivision of section twenty-one and one half may be taken by the board from the matters within its knowledge, or may be taken upon the information of another. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the board. Upon receiving the accusation the board shall, if it deem it sufficient, make an order setting the same for hearing, and requiring the accused to appear and answer it at said hearing, at a specified time and place, and the secretary shall cause a copy of the order and of the accusation to be served upon the accused at least ten (10) days before the day appointed in the order for said hearing. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause the board assign another day for that purpose. If he do not appear the board may proceed and determine the accusation in his absence. If the accused plead guilty or refuse to answer the charges, or upon the hearing thereof the board shall find them or any of them true, it may proceed to a judgment revoking his license or suspending it. The board and the accused may have the benefit of counsel, and the board shall have power to administer oaths, take the depositions of witnesses in the manner provided by law in civil cases, and to compel them to attend before it in person the same as in civil cases, by subpoena issued over the signature of the secretary and the seal of the board and in the name of the people of the state of California. Upon the revocation of any license, the fact shall be noted upon the records of the board of dental examiners and the license shall be marked as canceled, upon the date of its revocation. [New section, Stats. 1903, 326.]

§ 22. The members of the board of dental examiners shall make an annual report of its proceedings to the governor of California by the first of December of each year, together with an account of all moneys received and disbursed by them, pursuant to this act.

§ 23. Four members of said board of dental examiners shall constitute a quorum for the transaction of business at any meeting of the board.

§ 24. Nothing in this act shall be so construed as to interfere with the rights and privileges of physicians and surgeons in the discharge of their duties.

§ 25. This act shall take effect immediately, and all laws in conflict with this act are hereby repealed.

Ex parte Whitley, 144 Cal. 167, 168, 77 Pac. Rep. 879.

The Statute of 1885, 110, ch. CXXVII, was superseded by the new statute of 1901, above.

As to practitioner of medicine or surgery, see 28 L. R. A. 139; 45 L. R. A. 269.

As to clearness of act providing for examination of, see 49 L. R. A. 695.

As to delegating appointment of examiners in state dental association, see 51 L. R. A. 748.

As to discrimination in allowing dental students to practise, see 6 L. R. A. 119.

As to discrimination in favor of those practising in same place for certain time, see 6 L. R. A. 709.

As to injunction against practice of, see 20 L. R. A. 432.

As to insufficiency of allegations as to dental college, see 44 L. R. A. 635.

As to judicial power to review action of board in respect to license of dentist, see note 20 L. R. A. 355.

As to legislative regulation; exercise of police power, see brief in 51 L. R. A. 748.

"May" construed as "must" in action for examination.—See 49 L. R. A. 635.

Mandamus to compel dental examiners to indorse diploma.—See 44 L. R. A. 635.

Regulating qualifications,—as to, see brief in 49 L. R. A. 696.

Requiring examination of applicants to practice except graduates of regular college of dentistry.—See 49 L. R. A. 695.

Requiring diploma as condition of granting license.—See 6 L. R. A. 119.

"Statute requiring examination and license as prerequisite to ownership of dental office unconstitutional."—See 3 Mich. L. Rev. 465.

DEPENDENT POOR.

See Indigent Persons.

DEPOSITARIES OF MONEY.

See Banks and Banking.

DIPHTHERIA.

See State Board of Health.

DISINTERMENT OF HUMAN REMAINS; PERMITS, ETC.

See Cemeteries; Public Health.

DISTRICT ATTORNEY.

Authorizing and directing district attorneys to bring suits to abate public nuisances.

(Stats. 1899, 103, ch. LXXXVIII.)

§ 1. The district attorney of any county of this state in which a public nuisance may now or hereafter shall exist, may, and when directed by the board of supervisors of the county shall, bring a civil action in the name of the people of the state to abate said nuisance.

§ 2. All acts or parts of acts in conflict with this are hereby repealed.

§ 3. This act shall take effect and be in force immediately after its passage.

See License Tax; Ferry; Bridge.

DITCHES.

See Water Ditches and Flumes.

DIVISION FENCES.

See Fences.

DOGS—SHEEP KILLING.

The Act of 1865-6, 225, ch. CCXXVII, is believed to be superseded. See **KERR'S CIVIL CODE**, § 3341, and subd. 27 of § 25 of County Government Act. The statute is therefore omitted here.

DONATIONS TO STATE.

See Gifts to Public Use; State of California.

As to donations to state by will, see **KERR'S CIV. CODE**, § 1275 and note.

DOWNIEVILLE—TOWN.

See Municipal Corporations.

DRAINAGE—LANDS.

An act to promote drainage.

(Stats. 1885, 204, ch. CLVIII; amended 1891, 262, ch. CLXXXII.)

§ 1. Whenever the owners of two thirds of any body of lands susceptible of one mode of drainage desire to drain the same, they may present to the board of supervisors of the county in which the lands, or the greater portion thereof, are situated, at a regular meeting of the board, a petition setting forth that they desire to adopt measures to drain the same, the description of the land, the number of acres in the whole district, and the number of acres in each tract, and the names of the owners thereof, and the names of three persons who may desire to serve as trustees for the first three months; the petition must be verified by the affidavit of one of the petitioners, and must be published for four weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands are situated; or if there is no newspaper published in the county, then it must be published in some newspaper having a general circulation in the county, and an affidavit of such publication must be filed with the petition.

§ 2. When a district is situated partly in different counties, the trustees must, after the petition has been granted, forward a copy thereof to the clerk of the board of supervisors of any county in which any portion of the district may lie, and the board to which the same is forwarded must not allow another district to be formed within such district, unless with the consent of the trustees thereof.

§ 3. If the board of supervisors find, upon the hearing of such petition, that lands have been improperly included in such district, they may, before fixing the final boundaries, exclude from such district any lands which may have been included, or include any lands adjacent thereto, on petition of any owner of such land presented at such time of hearing, as they may deem for the best interests of such district; and they must then define the boundaries, declare the district duly formed, and the persons named in the petition for the formation of such district to be the trustees for the first three months, or until their successors are appointed. [Amendment, Stats. 1891, 262.]

§ 4. The petition must then be recorded by the county recorder.

§ 5. After the approval of the petition the petitioners may make such by-laws as they deem necessary for future appointment of trustees, and to effect the work of drainage, keep the same in repair and operation, and for the control and management thereof, by the votes or consent of the owners of a majority of the land in the district.

§ 6. The by-laws adopted must be signed by persons owning a majority of land in the district, and must be recorded by the county recorder.

§ 7. The board thus formed shall have power to elect one of their number president thereof, and to employ engineers to survey, plan, locate, and estimate the cost of the works necessary for drainage, and the land needed for right of way, including drains, canals, sluices, water gates, embankments, and material for construction, and to construct, maintain, and keep in repair all works necessary to the object in view.

§ 8. The board of trustees must report to the board of supervisors of the county, or if the district is situated in more than one county then to the board of supervisors of each county in which the district is situated, the plans of the work and estimates of the costs, together with the estimates of the incidental expenses of superintendence, repairs, etc.

§ 9. The board by which the district was formed must appoint three commissioners, disinterested persons residing in the county in which the district, or some part thereof, is situated, and such commissioners must view and assess upon the lands situated in the district a charge proportionate to the whole expense, and to the benefit which will result from such work, which charge must be collected and paid into the county treasury as hereinafter provided, and must be placed by the treasurer to the credit of the district, and paid out for the work of drainage upon the warrants of the trustees appointed by the board of supervisors of the county.

§ 10. The warrants drawn by the trustees must, after they are approved by the board of supervisors, be presented to the treasurer of the county, and if they are not paid on presentation, like indorsements must be made thereon, and they must be registered in like manner as county warrants.

§ 11. If a district is situated partly in different counties the charges must be paid into the treasury of the county in which the particular tract may be situated.

§ 12. If the original assessment is insufficient to provide for the complete drainage of the lands of the district, or if further assessments are from time to time required to provide for the protection, maintenance, and repairs of the works, the trustees must present to the board of supervisors by which the district was formed a statement of the work to be done and its estimated cost, and the board must make an order directing that the commissioners who made the original assessment, or other commissioners to be named in such order, to assess the amount of such estimated cost as a charge upon the lands in the district, which assessment must be made and collected in the same manner as the original assessment.

§ 13. The commissioners appointed by the board of supervisors must make a list of the charges assessed against each district of land, and the list must contain a description of each tract assessed, the number of acres in each tract, and the names of the owners in each tract, if known, and if unknown, the amount of charges assessed against each tract; and the board of commissioners must, on completion of such list, cause a notice to be published in some paper published in the county where such district is situated, and also have such notice posted in three places in such district, to the effect that the board of commissioners will, in ten days from the publication of such notice, meet (and they shall also name the time and place of such meeting) as a board of equalization for the purpose of equalizing assessments, and will continue in session as long as may be necessary, not to exceed ten days, at the end of which time, having equalized and adjusted such assessments, the list must then be filed as hereinafter provided. [Amendment, Stats. 1891, 262.]

§ 14. The list so made must be filed with the county treasurer of the county, or if the district is partly situated in different counties, then the

original list must be filed in the county first in order under alphabetical arrangement, and copies thereof, certified by the commissioners, must be filed with the treasurers of each of the other counties. From and after the filing of the list, or certified copies thereof, the charges assessed upon any tract of land in the county constitutes a lien thereon; and the list thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees; and during the time they so remain any person may pay the amount of the charges against any tract to the treasurer without costs; or if so ordered by the board of trustees, said payments may be by instalments: and if at the end of thirty days, or of the longer period fixed by trustees, all of the charges, or all of any instalments ordered by them, have not been paid, the treasurer must return the list to the district attorney, who must at once proceed by civil action to collect such charges.

§ 15. The work must be executed under the direction and in the manner prescribed by the board of trustees.

§ 16. The board must keep accurate accounts of all expenditures, which accounts, and all contracts that may be made by them, are open to the inspection of the board of supervisors, and every person interested.

§ 17. The trustees may acquire, by purchase, all property necessary to carry out and maintain the system of drainage provided for.

§ 18. The trustees may acquire, by condemnation, the right of way for canals, drains, embankments, and other works necessary, and may take materials for the construction, maintenance, and repair thereof from lands outside of as well as in the limits of said district.

§ 19. The provisions of title seven, part three, of the Code of Civil procedure are applicable to, and condemnation herein provided for must be made thereinunder.

§ 20. Whenever any district susceptible of one mode of drainage, entirely owned by parties who desire to drain the same, and to manage such drainage without the intervention of trustees of [or], the establishment of by-laws, they may file the petition provided for in sections one and two, and must state therein that they intend to undertake such drainage on their own responsibility. If the petition is granted, the owners of the land have all the rights, immunities, and privileges granted to boards of trustees, and in all proceedings the names of owners may be used instead of the names of trustees.

§ 21. This act shall take effect upon its passage.

The Statute of 1881, 15, on this subject was held unconstitutional in *Nickey vs. Stearns Ranchos Co.*, 126 Cal. 150, 151, 58 Pac. Rep. 459. But see the earlier case of *Holley vs. County Orange*, 106 Cal. 420, 422, 39 Pac. Rep. 790.

Stat. 1885, 204.—*Nickey vs. Stearns Ranchos Co.*, supra; *Laguna Drainage Dist. vs. Chas. Martin Co.*, 144 Cal. 209, 77 Pac. Rep. 933.

See note at end of this title.

DRAINAGE—CONSTRUCTION FUND.

Authorizing the controller and treasurer to transfer to the general fund all moneys now in the state drainage construction fund, and also, from time to time, to transfer to the general fund all moneys that may hereafter be paid into the state drainage construction fund.

(Stats. 1891, 237, ch. CLXV.)

§ 1. The controller is hereby authorized to transfer to the general fund all moneys standing to the credit of the state drainage construction fund, and also, from time to time, to transfer to the general fund all moneys that may hereafter be paid into the state drainage construction fund.

§ 2. The controller, immediately after making the transfers provided for in this act, shall notify the state treasurer of the same, and the treasurer shall thereupon make corresponding transfers upon the books of his office.

§ 3. This act shall take effect immediately.

See *State Funds*; and see next following several statutes and note.

DRAINAGE FUND, DIST. NO. 1.

Authorizing the controller and treasurer to transfer to the general fund all moneys to the credit of the construction fund of drainage district number one, and also, from time to time, to transfer to the general fund all moneys that may hereafter be paid into said construction fund of drainage district number one.

(Stats. 1891, 279, ch. CXC VII.)

§ 1. The controller is hereby authorized to transfer to the general fund all moneys to the credit of the construction fund of drainage district number one, and also, from time to time, to transfer to the general fund all moneys that may hereafter be paid into the construction fund of drainage district number one.

§ 2. The controller, immediately after making the transfers provided for in this act, shall notify the state treasurer of the same, and the treasurer shall thereupon make corresponding transfers on the books of his office.

§ 3. This act shall take effect immediately.

DRAINAGE FUND, DIST. 5, AND OTHER FUNDS.

Authorizing the controller and treasurer to transfer to the general fund all moneys now in the election reward fund, the leprosy fund, and interest and sinking fund, levee district number five, and abolishing the leprosy fund and interest and sinking fund, levee district number five.

(Stats. 1893, 6, ch. IX.)

§ 1. The controller is hereby authorized to transfer to the general fund all moneys standing to the credit of the election reward fund, the leprosy fund, and interest and sinking fund, levee district number five.

§ 2. The controller, immediately after making the transfers provided for in this act, shall notify the state treasurer of the same, and the treasurer shall thereupon make corresponding transfers upon the books of his office.

§ 3. The funds known as the leprosy fund and interest and sinking fund, levee district number five, are hereby abolished.

§ 4. This act shall take effect from and after its passage.

DRAINAGE—SACRAMENTO DISTRICT.

To create a drainage district to be called "Sacramento Drainage District," to promote drainage therein; to provide for the election and appointment of officers of said drainage district; defining the powers, duties and compensations of such officers and providing for the creation, division and management of reclamation, swamp land, levee, drainage and protection districts within said Sacramento drainage district, and providing for levying and collecting assessments upon the lands within said drainage district.

(Stats. 1905, 443, ch. CCCLXVIII, approved March 20, 1905.)

§ 1. There is hereby created a drainage district to be known and designated as "Sacramento Drainage District," the boundaries of which said district are as follows:

Commencing at the northwest corner of section twenty-six, Tp. 3 N. R. 1 E. M. D. B. & M. Thence southeast to the southeast corner of said section twenty-six; thence east on section line to the southwest corner of section twenty-nine, Tp. 3 N. R. 2 E. Thence northeast to the northeast corner of said section twenty-nine; thence east one half mile; thence north one half mile; thence east one half mile; thence northeasterly in a direct line to the southeast corner of Tp. 4 N. R. 2 E. Thence north along range line to southeast corner of section twelve, Tp. 4 N. R. 2 E. Thence west one mile to the southwest corner of section twelve; thence northwest in a direct line to the southeast corner of section twenty-nine, Tp. 5 N. R. 2 E. Thence northwesterly in a direct line to the quarter section corner of the west line of section twenty-nine, Tp. 5 N. R. 2 E. Thence west one and one half miles to the center of section twenty-five, Tp. 5 N. R. 1 E. Thence following quarter section lines north four miles to center of section one, Tp. 5 N. R. 1 E. Thence east one half mile to the quarter section corner on the east line of section one, Tp. 5 N. R. 1 E. Thence north one half mile to the northwest corner of Tp. 5 N. R. 2 E. Thence east along township line one mile more or less to the southwest corner of section thirty-two, Tp. 6 R. 2 E. Thence following legal subdivision line in said Tp. 6 N. R. 2 E, north one mile to the northwest corner of section thirty-two; east one half mile to the quarter section corner of the south line of section twenty-nine; north one half mile to the center of section twenty-nine; east one half mile to the quarter section corner on the east line of section twenty-nine; north one half mile to the northwest corner of section twenty-eight; east one half mile to the quarter section corner on the south line of section twenty-one; north one half mile to the center of section twenty-one; east one half mile to the quarter section corner on the east line of section twenty-one; north one and one half miles to the northwest corner of section fifteen; east one mile to the northeast corner of section fifteen; north one half mile to the quarter section corner on the west line of section eleven; east one mile to the quarter section corner on the east line of section eleven; north one half mile to the northwest corner of section twelve; east one mile to the northeast corner of section twelve; thence north along the range line one mile to the northwest corner of Tp. 6 N. R. 3 E. East one half mile to the quarter section corner on the south line of section thirty-one, Tp. 7 N.

R. 3 E. Thence following the legal subdivision lines in Tp. 7 N. R. 3 E. north two miles to the quarter section corner on the north line of section thirty; east one half mile to the northeast corner of section thirty; north two and one half miles to the quarter section corner on the west line of section eight; east one mile to the quarter section corner on the east line of section eight; thence north two and one half miles along section lines to the northwest corner of section thirty-three, Tp. 8 N. R. 3 E. Thence west along section line two miles to the southwest corner of section thirty, Tp. 8 N. R. 3 E; thence north along township line to the southwest corner of section six in said township; thence east one and one half miles to the quarter section corner on the south boundary of section five in said township; thence north one mile to the quarter section corner on the north line of said section five; thence west along section lines two and one half miles to the southwest corner of section thirty-six, Tp. 9 N. R. 2 E. Thence north along section line three miles to the northwest corner of section twenty-four, Tp. 9 N. R. 2 E. Thence west one half mile to the quarter section corner on the south line of section fourteen, Tp. 9 N. R. 2 E. Thence along quarter section line four miles to the quarter section corner on the north line of section thirty-five, Tp. 10 N. R. 2 E. Thence east one mile to the quarter section corner on the north line of section thirty-six in said township; thence north one mile to the quarter section corner on the north line of section twenty-five in said township; thence east one half mile to the township line; thence north two miles to the northeast corner of section thirteen in said township; thence west one quarter of a mile; thence north one half mile; thence west three quarters of a mile to the quarter section corner on the west boundary of section twelve in said township; thence north one mile to the quarter section corner on the west boundary of section one in said township; thence north one mile to the quarter section corner on the west boundary of section one; thence west one half mile to the center of section two; thence north one and one half miles to the quarter section corner on the north line of section thirty-five, Tp. 11 N. R. 2 E. Thence west to the northwest corner of section thirty-five in said township. Thence following legal subdivision lines in Tp. 11 N. R. 2 E. north two miles to the northwest corner of section twenty-three; west two miles to the southwest corner of section sixteen, north one half mile to the quarter section corner on the east line of section seventeen; west one half mile to the center of section seventeen, north one quarter mile, west one half mile to the west line of section seventeen, north one quarter mile to the northwest corner of section seventeen; thence west three quarters of a mile; thence north one quarter of a mile; thence west one half mile; thence north one half mile; thence west one quarter of a mile to the west boundary of section seven; thence south three quarters of a mile to the southwest corner of section seven; thence west on section lines two miles to the southwest corner of section eleven, Tp. 11 N. R. 1 E. Thence following legal subdivision lines in Tp. 11 N. R. 1 E. north one mile to the northwest corner of section eleven, west one half mile to the quarter section corner on the south line of section three, north one half mile to the center of section three, west three miles to the center of section six, north one half mile to the quarter section corner on the north line of section six; thence west along township line one

half mile to the southwest corner of Tp. 12 N. R. 1 E. Thence north along range line one mile to the northwest corner of section thirty-one, Tp. 12 N. R. 1 E. Thence following legal subdivision lines in Tp. 12 N. R. 1 W. west one half mile to the quarter section corner on south line of section twenty-five, north one mile to the quarter section corner on the north line of section twenty-five, west one quarter mile, north one mile to the north line of section twenty-four, west one half mile, north one mile to the north line of section fourteen, east one quarter mile to the southwest corner of section twelve, north one mile to the northwest corner of section twelve, east one half mile to the quarter section corner on the south line of section one; thence north on quarter section lines two miles to the quarter section corner on the north line of section thirty-six, Tp. 13 N. R. 1 W.; thence following legal subdivision lines in Tp. 13 N. R. 1 W. east one quarter mile, north one half mile, west one quarter mile, to the center of section twenty-five, north one quarter mile, west one quarter mile, north one half mile, west one quarter mile to the west line of section twenty-four, north one quarter mile to the quarter section corner on the east line of section twenty-three, west one quarter mile, north one quarter mile, west one quarter mile, north one quarter mile to the quarter section corner on the north line of section twenty-three, west one quarter mile, north one quarter mile, west one half mile, north one quarter mile, west one half mile, north one quarter mile, west one quarter mile to the west line of section fifteen, north one quarter mile to the northwest corner of section fifteen, west one quarter mile, north one mile, to the north line of section nine, west one quarter mile to the quarter section corner on the south line of section four, north one half mile to the center of section four, west one quarter mile, north one half mile to the north line of section four; thence west along the township line three quarters of a mile to the quarter section corner on the south line of section thirty-two, Tp. 14 N. R. 1 W. Thence following legal subdivision lines in Tp. 14 N. R. 1 W. north one and one half miles to the center of section twenty-nine, west one half mile to the quarter section corner on the west line of section twenty-nine, north one half mile to the northwest corner of section twenty-nine, west one quarter mile, north one and one quarter miles, west one quarter mile, north one half mile, west one quarter mile, north one quarter mile, to the north line of section eighteen, west one quarter mile to the northwest corner of section eighteen; thence north along the range line two miles to the northwest corner of Tp. 14 N. R. 1 W. Thence along legal subdivision lines in Tp. 15 N. R. 2 W. as follows: West one half mile to the quarter section corner on the south boundary of section thirty-six; thence north one and one half miles to the center of section twenty-five; thence west one half mile to the quarter section corner on the west boundary of section twenty-five; thence north two and one half miles to the southeast corner of section eleven; thence west one half mile to the quarter section corner on the south line of section eleven; thence north one mile to the quarter section corner on the north line of section eleven; thence west one half mile to the southwest corner of section two; thence north one mile to the northwest corner of section two; thence west one half mile to the quarter section corner on the south line of section thirty-four, Tp. 16 N. R. 2 W. Thence following legal subdivision

lines in Tp. 16 N. R. 2 W. as follows: North one half mile to the center of section thirty-four, west one half mile to the quarter section corner on the west line of section thirty-four; thence north one half mile to the northwest corner of section thirty-four; thence west one half mile to the quarter section corner on the south line of section twenty-eight; thence north one half mile to the center of section twenty-eight; thence west one half mile to the quarter section corner on the west line of section twenty-eight; thence north four and one half miles to the southeast corner of section thirty-two, Tp. 17 N. R. 2 W. Thence west along township line one mile to the southwest corner of said section thirty-two; thence north six miles to the southwest corner of section thirty-two, Tp. 18 N. R. 2 W. Thence east one mile to the southeast corner of said section thirty-two; thence north six miles to the northeast corner of section five in said township; thence east on township line to the southwest corner of Tp. 19 N. R. 1 W. Thence north four miles along range line; thence east two miles more or less to the center of the Sacramento river; thence northerly following the center line of said river to its intersection with the north line of Tp. 19 N. R. 1 W. Thence east along township line four miles more or less to the northeast corner of Tp. 19 N. R. 1 W. Thence south along meridian line five miles to the northwest corner of section thirty-one, Tp. 19 N. R. 1 E. Thence east along the north line of said section thirty-one to the west line of Rancho Aguas Frias; thence southerly along the west line of the said rancho one mile to the north line of Tp. 18 N. R. 1 E. Thence east along the north line of sections six and five, Tp. 18 N. R. 1 E. to the northeast corner of section five, Tp. 18 N. R. 1 E. Thence south following section line eleven miles to the southeast corner of section twenty-nine, Tp. 17 N. R. 1 E. Thence west one half mile to the quarter section corner on the north line of section thirty-two, Tp. 17 N. R. 1 E. Thence south along quarter section line two miles to the quarter section corner on the south line of section five, Tp. 16 N. R. 1 E. Thence west one half mile to the northeast corner of section seven, Tp. 16 N. R. 1 E. Thence south one mile to the southeast corner of said section seven; thence west one mile to the southwest corner of said section seven; thence south along range line two miles to the northwest corner of section thirty, Tp. 16 N. R. 1 E. Thence following legal subdivision lines in Tp. 16 N. R. 1 E. east one quarter mile; thence south one half mile; thence east one quarter mile to the center of section thirty; thence south one half mile to the quarter section corner on the south line of section thirty; thence east one half mile to the northeast corner of section thirty-one; thence south one mile to the northeast corner of section six, Tp. 15 N. R. 1 E. Thence following legal subdivision lines in Tp. 15 N. R. 1 E. south one half mile to the quarter section corner on the west line of section five, east one half mile to the center of section five, south one half mile to the quarter section corner on the south line of section five, east one and one half miles to the northeast corner of section nine, south one half mile to the quarter section corner on the west line of section ten, east one mile to the quarter section corner on the east line of section ten; south one half mile to the southeast corner of section ten; thence east along section lines four miles to the northeast corner of section seventeen, Tp. 15 N. R. 2 E. Thence east on section lines to the center of Feather

River; thence along the center of Feather River to its intersection with Yuba River; thence up the center of Yuba River to where the center of said river crosses the section line running north and south between sections sixteen and seventeen in Tp. 15 N. R. 4 E. Thence south on section line to the southwest corner of section four, Tp. 13 N. R. 4 E. Thence east three miles; thence north to the north boundary of Tp. 13 N. R. 4 E. Thence east along township line five miles; thence south two miles to the southwest corner of section eleven, Tp. 13 N. R. 5 E. Thence west on section line one mile; thence south one mile to the southwest corner of section fifteen, Tp. 13 N. R. 5 E. Thence west on section line two miles to the northeast corner of section nineteen, Tp. 13 N. R. 5 E. Thence south one mile to the southeast corner of said section nineteen; thence west on section line to the northwest corner of section twenty-eight, Tp. 13 N. R. 4 E. Thence south along section line nine miles to the southeast corner of section five, Tp. 11 N. R. 4 E. Thence east on section line two miles to the northeast corner of section ten; thence south three miles to the southeast corner of section twenty-two; thence east one mile to the northeast corner of section twenty-six; thence south two miles to the southeast corner of section thirty-five; thence east along the north line of section one, Tp. 10 N. R. 4 E. to the northeast corner of Tp. 10 N. R. 4 E. Thence south along range line six miles more or less to the southeast corner of Tp. 10 N. R. 4 E. Thence east along township line one half mile more or less to the west line of Rancho del Paso; thence south along the west line of said rancho four miles; thence east three and one half miles more or less to a point due north from the northeast corner of section fifteen, Tp. 8 N. R. 5 E. Thence south four miles more or less to the northeast corner of section fifteen, Tp. 8 N. R. 5 E. Thence following legal subdivision lines in Tp. 8 N. R. 5 E. south one mile to the southeast corner of section fifteen, west two miles to the southwest corner of section sixteen; south two miles to the southeast corner of section twenty-nine; east one mile to the northeast corner of section thirty-three; thence south along section lines four miles to the southeast corner of section sixteen, Tp. 7 N. R. 5 E. Thence west one mile to the southwest corner of section sixteen, Tp. 7 N. R. 5 E. Thence south along section line seven miles to the southeast corner of section twenty, Tp. 6 N. R. 5 E. Thence east on section lines to the center of the Cosumnes River; thence down the center of the Cosumnes River to the center of the Mokelumne River; thence down the center of the Mokelumne River to its forks at New Hope landing; thence down the center of the south fork of the Mokelumne River to its intersection with Potato Slough near the northwest corner of section thirteen, Tp. 3 N. R. 4 E. Thence down the center of Potato Slough to its intersection with Little Connection Slough. Thence down the center of Little Connection Slough. Thence down Disappointment Slough to the center of the San Joaquin River; thence down the center of said river to a point due south of the place of beginning; thence north to the place of beginning.

§ 2. The officers of said district shall consist of a board of drainage commissioners, who shall hold office four years from and after their election or appointment, and until their successors have qualified, and a board of river control, consisting of two members selected as hereinafter provided.

§ 3. Said drainage commissioners shall be nine in number, and shall be

selected as follows: Two from the county of Sacramento; one from the county of San Joaquin; one from the county of Solano; one from the county of Yolo; one from the county of Colusa; one from the county of Sutter; one from the counties of Yuba and Placer jointly, and one from the counties of Glenn and Butte jointly.

§ 4. An election shall be held on the first Saturday after the first day of September, in the year one thousand nine hundred and five, and every four years thereafter, on the first Saturday after the first day of September of such year, in that portion of each of said counties situated within said drainage district, at which election said commissioners shall be elected. At such election each owner of land within that portion of each county situated within said district shall be entitled to cast one vote, in person or by proxy, for each commissioner to be elected in such county for each one dollar's worth of real estate owned by such landowner within said district, and within said county, such valuation to be determined by the next preceding assessment roll of such county. Where more than one commissioner is to be elected in a county, every owner of real estate entitled to vote shall have the right to cumulate his or her votes and multiply them by the number of candidates to be elected in said county, and give one candidate all of said votes, or distribute such votes on the same principle among as many candidates as may be desired. The estates of minors, incompetent or deceased persons shall be represented by the guardian, executor, administrator or trustee in person.

The board of supervisors of each county shall designate the voting places in such county. Notice of the time and place of holding such elections in each county shall be given by publication for two weeks next preceding such election in some newspaper published in such county, and in case there is a newspaper published in such drainage district, such notice must be published therein. An inspector and two judges of election shall be appointed for each voting place, who shall constitute a board of election for such voting place. Said board of election shall be appointed by the board of supervisors of each county, respectively. In case no board of election shall be appointed, or if any member thereof shall fail or refuse to serve, the landowners present at such election may appoint such board of election, or supply the place of an absent member. Each member of the board of election must, before entering upon the discharge of his duties, be sworn to perform them faithfully. Any person entitled to vote at such election may administer the oath. The polls shall be kept open from ten o'clock a. m. until four o'clock p. m. on the day of said election.

The board of election must keep a list of the names of the persons voting at such election, together with a statement of the number of votes cast by each, and shall canvass the votes and make a return thereof showing the number of votes cast for each person for drainage commissioner, and shall return therewith said list containing the names of the landowners voting at such election.

Such election shall be by ballot, which ballots must contain the name of the person voting the same, the total number of votes cast, the names of the persons voted for and the number of votes cast for each of said persons. The ballots must be inclosed in an envelope by the election board, and delivered, with the election returns, to the board of supervisors of the county in which

the votes were cast, and such board of supervisors shall cause a certificate of election to be issued by the clerk of said board to the person or persons receiving the highest number of legal votes. Where one drainage commissioner is to be elected by votes cast in more than one county, the election returns must be made to the board of supervisors of the county containing the greater quantity of land within said drainage district.

If a certificate of election shall be issued to any person who has not received the highest number of legal votes, and upon an affidavit being filed by a landowner in said drainage district setting forth that such person did not receive the highest number of legal votes, and giving the names of the persons who cast illegal votes for such person, and the number of such illegal votes so cast, the board of supervisors shall canvass the election returns, and hear evidence touching the legality of any votes cast, and may revoke such certificate of election and issue a certificate to the person legally elected; and any person aggrieved may thereupon prosecute a contest in the courts for the determination of the legality of the election of the person to whom the certificate of election has been issued.

§ 5. Within fifteen days after receiving a certificate of election, and before entering upon the duties of his office, each drainage commissioner shall take the oath of office prescribed by law, and file the same in the office of the county clerk of the county in which such commissioner resides, and shall file in the office of said clerk a bond approved by a judge of the superior court of such county in the sum of ten thousand dollars, conditioned that he will faithfully discharge the duties of his trust according to law.

Each drainage commissioner must be a bona fide owner of at least forty acres of land within said drainage district, and within the county for which he was elected.

All vacancies in the board of drainage commissioners shall be filled by appointment by the governor, and such appointee shall hold office until the next succeeding election.

§ 6. The board of drainage commissioners shall elect one of their number as president, and shall elect a secretary, and an engineer, who shall not have been a member of the board, and employ such other persons as may be necessary to assist and advise said board.

The office of said board of drainage commissioners shall be kept at the city of Sacramento. The board shall hold regular meetings upon the first Mondays of February, May, August and November of each year, and may, in the by-laws of the district, provide for as many regular meetings as may be necessary, and at such meetings a majority of all of the members shall constitute a quorum for the transaction of any and all business.

Each commissioner shall receive ten dollars per day, and necessary mileage actually expended while engaged in the performance of his duties, but the per diem of any commissioner shall in no case exceed one thousand dollars for any one year.

The engineer elected by the board of drainage commissioners shall inspect the works of reclamation of all persons and districts within said drainage district, and report the condition thereof to the board of drainage commissioners. He must examine all plans of reclamation, and estimates sub-

mitted to said board of drainage commissioners, and advise such board as to the sufficiency of such plans and estimates, and perform such other duties as may be required by the board.

All notices required by this act to be published, must be published in a newspaper within the drainage district, if there be a newspaper published therein, and within the county in which such publication is to be made. If there is no newspaper published within said drainage district and within such county, such publication must be made in the newspaper published nearest to said district and within said county.

§ 7. The board of drainage commissioners shall have power to adopt by-laws, not in conflict with general laws; to supervise and control the formation, consolidation or division of reclamation districts within said drainage district; to employ engineers, and such other persons as may be necessary to advise and assist them in the performance of their duties; to appoint an executive committee, with such powers as are not in conflict with general laws; to have supervision of all levees and canals within said drainage district, excepting such levees and canals as are, or may be, placed under the supervision of the board of river control, as in this act provided; to approve, or disapprove, any plan of reclamation in any reclamation district; to compel the construction and maintenance of necessary reclamation works in reclamation districts within said drainage district; to issue warrants upon the state controller for its expenditures incurred as provided by law; to appoint trustees of reclamation districts in case of vacancies; to acquire by contract, purchase, condemnation, or other lawful means, from private persons, reclamation, swamp-land, levee or protection districts, or corporations, all rights of way, easements, property, and material necessary or requisite for levees, canals and other reclamation works; to sue and to be sued in the name of said drainage district, and to do all other acts and things necessary or requisite for the full exercise of their powers or necessary for the promotion of the reclamation of lands within said drainage district.

§ 8. Whenever, in the opinion of said board of drainage commissioners, it shall be necessary to levy an assessment upon the lands within said drainage district for the purpose of paying the expenses of said board of drainage commissioners, or the cost of construction of any canals or levees that are intended to promote drainage or protection of more than one reclamation district or tract of land, or any expenditures necessary to enable said board to perform its duties and promote reclamation, said board of drainage commissioners shall cause an assessment to be levied upon the lands within said drainage district for such purpose.

Said board shall make an estimate of the sum or sums necessary for each purpose, excepting the expenses of general management, which may be estimated in one sum.

The board shall appoint three assessors, who shall be disinterested persons, and who shall have no interest in any real estate within said drainage district, and each of whom, before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of an assessor to the best of his ability.

Said assessors must assess upon the land within said drainage district the said sum so estimated by the board of drainage commissioners, and shall apportion the same according to the benefits that will accrue to each tract of land in said district, respectively, by reason of the expenditure of said sums of money.

Said assessors shall make a separate list of the lands so assessed in each county, which list shall contain a description of the tracts of land assessed, by swamp land surveys, legal subdivisions, or other boundaries or references sufficient to identify the same; the name of the owner, if known, or if unknown, that fact; the amount of the charge assessed against each tract. No mistake in the name of the owner, or supposed owner, of any real estate shall invalidate the assessment.

Said lists when completed shall be filed with the secretary of the board of drainage commissioners, and said secretary shall forward to the county treasurer of each county the assessment list for such county, and the same shall be open for inspection by the public.

The board of drainage commissioners shall appoint a time and place when and where it will meet in each county for the purpose of hearing objections to said assessments, and notice of such hearing shall be given by publication for two weeks in some newspaper published in said county, such publication to be made in the newspaper nearest to said district and within said county. At any time before the date of such hearing, any person interested in any real estate, upon which any charge has been assessed, may file written objections to such assessment, stating the grounds of such objection, which said statement shall be verified by the affidavit of such person, or some other person who is familiar with the facts. At said hearing, the board of drainage commissioners shall hear such evidence as may be offered touching the correctness or the equity of such assessment, and may modify or amend the same, and the decision of said board of drainage commissioners shall be final, and thereafter said assessment list shall be conclusive evidence that the said assessment has been apportioned according to the benefits that will accrue to each tract of land in said district, and such assessment shall constitute a lien upon the lands so assessed.

§ 9. After such hearing has been had in any county, said assessment list shall be certified by the secretary of the board of drainage commissioners to be correct, and said list shall be deposited in the office of the county treasurer of said county, and said assessment shall thereafter be paid to the county treasurer in such instalments, and in such amounts, and at such times as the board of drainage commissioners shall by order direct, but the time for such payments shall not be less than sixty days from and after the date of making such order.

In case any instalment of any assessment shall not be paid at the time directed by the board of drainage commissioners, a cause of action shall accrue for the collection of such delinquent instalment, or of the whole of such assessment, at the option of said board of drainage commissioners, together with interest at the rate of seven per centum per annum from the date of such delinquency.

The board of drainage commissioners shall commence actions in the name

of said drainage district, in the superior court of the county in which the land is situated, for the collection of said delinquent instalment or delinquent assessment, with interest thereon and costs, and for the enforcement of the lien on the land assessed, against the person to whom the same shall have been assessed, or against the owner of said land in case the same shall not have been assessed to the owner, and if said land was assessed to unknown owners, then against the real owners, or if the names of such real owners cannot be ascertained, then against all persons having or claiming any interest therein by fictitious names. The complaint shall contain a description of the real estate as described in the assessment; the amount of the delinquent instalment or assessment sought to be recovered; a statement that the said lands have been assessed by the assessors appointed by the board of drainage commissioners; the name of the person to whom it was assessed, or if assessed to unknown owners, that fact, and the date when the assessment list was certified by the secretary of the said board of drainage commissioners.

Service of the summons and complaint in such action shall be made in the manner prescribed by the Code of Civil Procedure when the defendant can be found within the county where the action is commenced; but if the defendant cannot be found within the county, or if no person is named as a defendant other than by fictitious names, or, if any person shall be sued by a fictitious name, the summons may be served on such person by posting a copy of the summons at the court-house door, and publishing the same once a week for four successive weeks in a newspaper published in the county, and such posting and publication is equivalent to personal service on all persons having or claiming any interest, right or title in the lands assessed, whether named as a party in such action or not. The summons must contain a description of the property. Proof of such posting and publication must be made by a certificate of the sheriff or the affidavit of the person making the service. In case the service be made by posting and publication, the defendant, or any person claiming any interest in the land assessed, may appear and answer the complaint within thirty days after the expiration of the four weeks of posting and publication. Assessments on several tracts may be included in the same action if listed to the same person. In all actions for the collection of delinquent instalments or delinquent assessments, if the decision shall be in favor of plaintiff the court shall make a decree directing that each tract of land be sold on execution or decree to satisfy the amount of the instalment or assessment on such tract, together with the interest, costs and accruing costs. The sale shall be made by the sheriff of the county or by a commissioner appointed by the court for such purpose, in the same manner as sales upon foreclosures of mortgages on real property. If the suit is for the recovery of one or more instalments, less than the whole assessment, the sale shall be made subject to subsequent instalments, but all sums received shall be applied to the payment of said assessment, and the excess, if any, must be paid to the owner of the lands.

All moneys collected upon the sale shall be paid to the county treasurer of the county in which the land is situated, and said money, together with all other moneys collected by the treasurer on such assessment, shall be deposited

in the state treasury to the credit of said drainage district, and shall be paid out upon warrants of the state controller, and the controller is hereby directed to issue warrants upon said funds whenever warrants of the board of drainage commissioners shall be presented to him, without the approval of the state board of examiners, and the state treasurer is hereby directed to pay such controller's warrants when there is sufficient money in the funds of said drainage district. In case there are not sufficient funds for such purpose, the state treasurer shall indorse on such warrants the date of presentation and register the same, and thereafter such warrants shall bear interest at the rate of seven per centum per annum, and must be paid in the order of their registration.

The owner of any land that has been sold in pursuance of the provisions of this section may redeem the same at any time within six months after such sale by paying to the purchaser the sum bid for the land, and such other sums as may have been paid by such purchaser for assessments or taxes upon such land, together with interest on such sums at the rate of ten per centum per annum.

§ 10. The board of river control shall consist of two members appointed by the governor of the state of California, one of whom shall be the president of the board of drainage commissioners of said drainage district, and the other shall be a competent civil engineer.

§ 11. Within six months after the organization of the board of drainage commissioners they shall appoint a committee of three persons to act in conjunction with a similar committee appointed by the governor of the state of California to determine the proportion to be borne by said district and the state respectively, of the cost of constructing and completing the works recommended in the report of T. G. Dabney, H. B. Richardson, H. M. Chittenden, and M. A. Nurse, engineers appointed by the commissioner of public works of the state of California, which said report of said engineers was filed with the commissioner of public works of the state of California on the fifteenth day of December, one thousand nine hundred and four; or such supplemental, amended, or other plan as shall be approved by the state board of examiners. When said cost has been apportioned and approved by the board of drainage commissioners, they shall appoint three assessors, as in section eight of this act provided. Said assessors shall immediately proceed to assess upon the lands within said drainage district the said sum so apportioned to said district as its proportion of the cost of said works, as a charge upon the lands within said district. Separate lists shall be made by said assessors for such assessment, and the same shall be a lien upon the lands so assessed, and in all respects the same proceedings shall be had in the levying, equalizing and collecting of said assessment as is provided in sections eight and nine of this act for levying and collecting other assessments, and the provisions of sections eight and nine hereof are hereby made applicable to the assessments to be levied under this section, so far as the same are not in conflict with this section, excepting that the payment of said assessments levied under the provisions of this section shall be directed by the board of river control in such amounts as from time to time may be necessary for the purposes of prosecuting said work.

Provided, however, that no part of said assessment in this section provided shall be called in or collected until the state of California and the government of the United States, or one of them, shall have made an appropriation, or other legal provision, for the payment of the balance of the sum to be expended jointly with said district in performing the work according to the plans recommended by the said report of said engineers, or such supplemental, amended or other plan, as may be approved by the state board of examiners.

In case the payment of said sum by the state of California, or the government of the United States, shall not be provided for within five years from the time said assessment shall have been levied, said assessments upon said lands shall become void, and the lien thereof upon the said lands shall expire.

The said assessments may be apportioned upon the said lands at the same time as, and by the same assessors appointed to levy, an assessment under the provisions of sections eight and nine of this act, and such assessments shall be apportioned according to the benefits that will accrue by the expenditure of said money and the construction of said works.

Said assessments shall be paid to the county treasurer of the county in which the lands are situated, and shall be by said county treasurer deposited in the state treasury to the credit of a fund hereby designated as the "River Improvement Fund."

§ 12. The board of river control shall have supervision of all levees and canals intended to do duty in carrying flood water, and shall have such other powers and shall perform such other duties as may be prescribed by law. They may acquire from private owners, or from reclamation, swamp land, levee or protection districts, or corporations, by contract, purchase, condemnation or other lawful means, such rights of way, easements, property, and material as may be necessary for their said purposes, whether the same shall be situated within said district or not, and may prosecute any condemnation suit or proceeding in the name of the people of the state of California, and do and perform all other acts and things necessary or requisite for the full discharge of their duties.

The term of office of the members of the board of river control shall be four years from and after their appointment, and until their successors are qualified. Each member of said board shall receive a salary of six thousand dollars per annum from and after the commencement of the said work, which salary shall be paid out of the river improvement fund. They may employ a secretary, and such other persons as may be necessary, to advise and assist them in the performance of their duties. They shall keep an office at the city of Sacramento, and their records, books and papers shall be subject to inspection by any person interested.

§ 13. It shall be the duty of said board of river control to consult and advise with such board or officer as may be designated or appointed by the government of the United States, to devise and construct works for the improvement of the channels of the Sacramento and San Joaquin rivers and their tributaries, in accordance with the report of the engineers mentioned in section eleven of this act, or such supplemental, amended or other plan as may be approved by the state board of examiners. It shall also be their duty to examine all plans and specifications which may be prepared or adopted for the construc-

tion of works for controlling flood waters and improvement of the channels of said rivers and their tributaries, and to submit a copy of all such plans and specifications to said state board of examiners for their examination and consideration. The state board of examiners shall thereupon proceed to examine and consider such plans and specifications, and may require the attendance, counsel and advice of said board of river control during the examination and consideration thereof.

The state board of examiners shall keep a record of their deliberations and shall either approve or disapprove said plans and specifications by a majority vote of said board. If said plans and specifications shall be approved by the state board of examiners, the said board of river control shall thereupon report such action to said board or officer designated or appointed by the government of the United States, whenever the government of the United States, or its agents or officers, shall have entered into any contract for the construction of such works, in pursuance of plans and specifications which have been approved by the state board of examiners, as in this act provided, it shall then be the duty of the said board of river control to carefully inspect such works during the process of their construction, and to keep a record of the result of such inspection, and to report the same monthly to the state board of examiners. Said board of river control shall also from time to time, during the progress of the construction of such work, when requested so to do by said board or officer designated or appointed by the government of the United States, draw warrants upon the state controller in favor of such person or persons as may be designated by the said board or officer of the United States government for such amount as shall equal the proportion of the cost of construction of such works, to be paid from the river improvement fund, as hereinbefore in this act provided.

All expenditures made from the river improvement fund shall be subject to the approval of the state board of examiners, and the state controller is hereby authorized to draw his warrant upon said fund for all expenditures so approved by the state board of examiners, and the state treasurer is hereby directed to pay the same.

§ 14. The boundaries of all reclamation districts, drainage districts, swamp-land districts, levee districts, and protection districts, heretofore legally formed by any method, under any law, or at any time, shall continue to exist as at present formed, and until altered by the board of drainage commissioners, excepting that the boards of supervisors of the various counties shall continue to exercise jurisdiction under the provisions of the Political Code of the state of California, until the suspension of the powers of the board of drainage commissioners under section twenty-nine of this act, shall have been removed.

§ 15. Whenever the holders of title, or evidence of title representing one half or more of any body of lands within said drainage district shall desire to reclaim the same, they may file with the secretary of the board of drainage commissioners a petition setting forth that they desire to form a district for the reclamation of the same; a description of the lands by legal subdivisions, swamp-land surveys, or other boundaries or references sufficient to identify the same; that the same are susceptible of one mode of reclamation; the county or counties in which they are situated; the number of acres in the pro-

posed district and in each tract, with the names, (if known) of the owners thereof. The petition must be verified by the affidavit of one of the petitioners.

§ 16. When said petition has been filed the board of drainage commissioners must fix a time for hearing the same, and said petition must be published for four weeks next preceding the hearing thereof in a newspaper published in the county or counties in which any of the lands, are situated, and an affidavit of such publication must be filed with the clerk of the board of drainage commissioners. On the hearing of the petition, the board of drainage commissioners may make an order forming said district, or if, in its opinion, any land has been improperly included in, or excepted from, the proposed district, it must reform the district in such respects in its order.

§ 17. If the reclamation of any lands within said drainage district will be promoted by the formation of a reclamation district, including lands situated in one or more reclamation, swamp-land, levee, drainage or protection districts, as well as lands not embraced in any district, the board of drainage commissioners may make an order forming a new district in such manner and embracing such lands as in its judgment will best promote reclamation. Before making such order the board must direct the engineer of the board to examine said lands and report upon the necessity for forming such district. If the report of the engineer be favorable to the formation of such district, the board must fix a time and place for hearing objections to the formation of such a district and must publish a notice thereof for four weeks next preceding such hearing, in a newspaper published in each county in which any of the lands affected are situated. The notice must contain a description of the lands by legal subdivisions, swamp-land surveys, or other boundaries or references sufficient to identify the same. On such hearing the board must hear such evidence as may be offered by any person interested in said lands, and in case said board shall determine that the formation of such district will promote the reclamation of the lands, it must make an order forming the same.

§ 18. The orders made under the provisions of sections sixteen and seventeen of this act, must be signed by the president and attested by the secretary of the board of drainage commissioners, and must contain a description of the lands embraced in the reclamation district formed under said sections, together with a certificate that said lands have been formed into a reclamation district. The order must then be recorded by the county recorder of each county in which any of the lands are situated, and a certified copy thereof forwarded to the register of the state land office. The register must give the district a number, and send its number to the secretary of the board of drainage commissioners, and to the recorder of each county in which any of the lands are situated, and such recorder must number the order upon the records. Thereafter the lands described in such order shall comprise a reclamation district, and said district shall have all the powers pertaining to other reclamation districts within said drainage district, notwithstanding that such lands may have been previously embraced in a reclamation district, swamp-land district, levee district, drainage district, or protection district, created by, or under, any law of the state of California; it being the intention of this act to provide

a uniform system for promoting the reclamation of all lands within said drainage district.

§ 19. The boards of trustees of reclamation, swamp-land, levee, drainage, and protection districts within said Sacramento drainage district must submit all original and supplemental plans of reclamation for their respective districts, together with estimates of cost, to the board of drainage commissioners, and said board of drainage commissioners shall have power to amend or modify the same in any manner which in its opinion, will best promote the purposes of reclamation. When such plans and estimates have been fully approved by the board of drainage commissioners, it shall appoint commissioners of assessment as provided in section thirty-four hundred and fifty-six of the Political Code, who must perform the duties of commissioners as prescribed in sections thirty-four hundred and fifty-six, thirty-four hundred and fifty-nine, thirty-four hundred and sixty, thirty-four hundred and sixty-one and thirty-four hundred and sixty-two of the Political Code of the state of California.

§ 20. The powers and duties of boards of supervisors under the provisions of article two of chapter one of part eight of the Political Code of the state of California are hereby conferred upon and are hereby made the powers and duties of the board of drainage commissioners of said drainage district relating to all matters within the boundaries of said drainage district as fully as though such provisions were incorporated in this act, and all powers and duties to be exercised or performed by boards of supervisors under the said provisions of the Political Code, shall be exercised and performed by said board of drainage commissioners, excepting where such provisions are inconsistent with the provisions of this act.

§ 21. The trustees and officers of all reclamation, swamp-land, drainage, levee and protection districts within said Sacramento drainage district, and the owners of land therein, shall hereafter exercise such powers and perform such duties as are conferred and imposed upon the trustees, officers, and landowners within reclamation districts formed under the provisions of article two of chapter one of part eight of the Political Code of California, excepting so far as such provisions are inconsistent with the provisions of this act, and all such reclamation, swamp-land, drainage, levee and protection districts within said drainage district, must, after the passage of this act, elect trustees, adopt by-laws, issue warrants, and manage the affairs of such districts in the manner directed by the said provisions of the Political Code and the provisions of this act, so that a uniform system may be followed in all the districts within said Sacramento drainage district, whether such districts were formed under the provisions of the Political Code, or otherwise, and all provisions of this act relating to reclamation districts shall apply to any and all districts formed or created in any manner for the purpose of reclaiming swamp and overflowed lands.

§ 22. If the landowners in any reclamation or other district shall fail to elect trustees for such district, or if a vacancy occur in any board of trustees, the board of drainage commissioners may appoint such trustees, and in case any board of trustees shall fail to qualify, or to perform its duties in submitting a plan of reclamation for their district, or shall fail to prosecute the

reclamation of the lands in pursuance of a plan of reclamation that has been adopted, the board of drainage commissioners may adopt a plan of reclamation for such district, and may cause the works of reclamation to be constructed and operated in pursuance of such plan, and may cause an assessment to be levied upon the lands in such district in the manner that other assessments are levied, and may collect and cause the same to be expended in the construction and maintenance of such works of reclamation, and for such purpose may exercise all the powers of a board of trustees for such district.

§ 23. All warrants issued by the trustees of any reclamation, or other district, must be presented to the board of supervisors of the county in which the district is situated for approval, and must be approved by said board if such warrants are a legal charge against the funds of such district, and such warrants must not be paid or registered by the county treasurer unless the same have been so approved and indorsed by the president of the board of supervisors. After such warrants shall have been registered, they must be paid by the county treasurer in the order in which they are registered.

§ 24. In all cases where the board of drainage commissioners shall consolidate, divide or change the boundaries of any reclamation, swamp-land, levee, drainage or protection district, it may impose and provide such terms as may be just for the payment of any indebtedness of any such district, and apportion the property and reclamation works of any district, and provide for payment to any such district of such sum as may be just for such of its works of reclamation as may be beneficial to other lands, and may cause assessments to be levied for such purposes.

§ 25. It shall be unlawful for any member or officer of said board of drainage commissioners, without the unanimous consent of the board of drainage commissioners, to have or own any interest or share, either directly or indirectly, in any contract made or let by said board for the construction or repair of any levee, or in any contract whatever for supplies or material used for levee purposes, or for any officer or member of said board to receive directly or indirectly for his own use and benefit any portion or share of the money or other thing paid for the construction or repair of such levees.

§ 26. If any member of the board of drainage commissioners herein created, or any agent, or any other person intrusted with the care, custody or possession of any of the money, goods, rights in action, or other valuable security, effects, or property, of any kind or description, which shall have come or been intrusted into his or their care by virtue of his or their office, place or employment, shall conceal, secrete, retain for his own use, or appropriate the same to his own benefit or behoof, he or they shall be punished by imprisonment in the penitentiary not more than five years.

§ 27. Any person who shall cover up in or under any levee in the construction, enlargement, or repair thereof, any log, stump, or other material which, under the specifications of the contract under which the work is being done, should be removed or should not be used in the construction, or who shall procure any such act or thing to be done, shall be guilty of a misdemeanor, and on conviction shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not less than one month nor more than six months, or by both such fine and imprisonment.

§ 28. Every board of trustees of any reclamation, swamp-land, levee, drainage or protection district within said drainage district shall annually, in the month of January of each year, make and furnish to the board of drainage commissioners a complete statement in detail of the work done by such board of trustees during the preceding twelve months, and a detailed statement of the condition of the works of reclamation in such district, together with a statement of the expenditures made by such board of trustees during the preceding twelve months, showing the persons to whom all warrants were issued, together with the several amounts thereof, and the services performed by such persons.

§ 29. Until the state of California, and the government of the United States, or one of them, shall have made legal provisions for paying a sum, or sums, which, together with the amount of the assessment mentioned in section eleven of this act, shall equal the entire estimated cost of river improvement specified in said section eleven, the powers of the board of drainage commissioners conferred by this act shall be, and they are hereby suspended; excepting that said board of drainage commissioners may cause to be levied and collected an assessment under the provisions of sections eight and nine of this act, which said assessment shall not exceed the sum of fifty thousand dollars; and said board of drainage commissioners may also exercise the powers conferred by section eleven of this act, and such other powers as may be necessary to the exercise of the powers that are not hereby suspended. The powers of all boards of supervisors and trustees of reclamation, swamp-land, drainage, levee and protection districts are hereby continued in force until the general powers of the drainage commissioners shall become fully effective under the provisions of this section.

§ 30. All acts and parts of acts in conflict with this act are, for the purposes of this act, hereby repealed.

§ 31. This act shall take effect and be in force from and after its passage.

DRAINAGE—LAND OTHER THAN SWAMP, ETC.

To provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands, and to provide for the acquisition or construction thereby of works for the drainage of the lands embraced within such districts.

(Stats. 1903, 291, ch. CCXXXVIII.)

§ 1. Whenever fifty or a majority of the holders of title, or evidence of title as herein provided, to agricultural lands other than swamp and overflowed lands, which are susceptible of one general mode of drainage by the same system of works, desire to provide for the drainage of such lands, they may propose the organization of a drainage district under the provisions of this act, and when so organized, such district shall have the powers, rights and duties conferred, or which may be conferred by law, upon such drainage districts. The equalized county assessment roll next preceding the presentation of a petition for the organization of a drainage district under the provisions of this act, shall be sufficient evidence of title for the purposes of this act; provided, that no person who has received or acquired title to land within

such proposed district for the purpose of enabling him or her to join in such petition or to become an elector of said district, shall be allowed to sign such petition or to vote at any election to be held in such district under the provisions of this act. Such illegal signing, however, shall not invalidate such petition when there shall be found a sufficient number of other legal petitioners.

§ 2. In order to propose the organization of a drainage district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, to lands within such proposed district, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same be organized under the provisions of this act. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the obligors will pay all the costs in case such an organization will not be effected. The petition shall be presented at a regular meeting of said board of supervisors, and shall have been published for at least two weeks before such presentation, in some newspaper printed and published in the county where the petition is presented, together with a notice stating the date of the meeting of the said board at which the petition will be presented; and if any portion of the proposed district lies within another county, or counties, then said petition and notice shall be likewise published in a newspaper printed and published in each of such counties.

§ 3. When such petition is presented, the board of supervisors shall hear the same, and may adjourn such hearing from time to time not exceeding four weeks in all, and on the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable, and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of drainage by the same system of works applicable to the other lands in such proposed district; nor shall any lands which will not, in the judgment of said board, be benefited by drainage, by means of said system of works, be included within such proposed district. Any person whose lands are susceptible of drainage by the same system of works, may, upon his application, in the discretion of said board, have such lands included within said proposed district. Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of sections one and two of this act, and for that purpose must hear all competent and relevant testimony offered in support or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors.

§ 4. The right of appeal from said order to the superior court of the county where said petition is heard, is hereby given to any person interested, who is a party to the record; provided, that if more than one appeal be taken they shall be consolidated and tried together. Such appeal shall be taken within ten days after the entry of such order upon the minutes of the board of supervisors. The appeal shall be taken and heard in the same manner as appeals from justices' courts to the superior court, except as herein otherwise provided. Upon the appeal, the superior court may make and enter its judgment

affirming, modifying, or reversing the order appealed from. Within ten days thereafter, the superior court must cause its remittitur to issue to said board of supervisors, and if said order of the board of supervisors is modified or reversed, the judgment of the superior court and its remittitur shall direct the board of supervisors what order it shall enter. Such remittitur shall be filed by the clerk of the board of supervisors, and at the first regular meeting of the board thereafter, it shall cause to be entered in its minutes the order as directed by said superior court. The appeal herein provided for shall be heard and determined within thirty days from the time of filing the notice of appeal.

§ 5. When, under the provisions of the preceding sections, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into three or five divisions, as nearly equal in size as practicable, which divisions shall be numbered consecutively, and one director who shall be an elector and a resident freeholder of the division, shall be elected, as hereinafter provided, by each division; provided, that when requested in the petition three directors who shall be residents, electors and freeholders of the district, shall be elected at large by the qualified electors of the district.

§ 6. Said board of supervisors shall then give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall designate a name for such proposed district, and describe the boundaries thereof and the boundaries of the precincts established therein, when more than one, together with a designation of the polling-place and board of election for each precinct; and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Drainage District—Yes" or "Drainage District—No" or words equivalent thereto, and also the names of one or more persons (according to the divisions of the proposed district as prayed for in the petition and ordered by the board) to be voted for to fill the office of director. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state but no particular form of ballot shall be required.

§ 7. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

§ 8. The said board of supervisors shall on the first Monday succeeding such election, if then in session, or at its next succeeding general or special session proceed to canvass the votes cast thereat, and if upon such canvass, it appear that at least two thirds of all the votes cast are "Drainage District—Yes," the board shall by an order entered in its minutes, declare such territory duly organized as a drainage district, under the name theretofore designated, and

shall declare the persons receiving, respectively the highest number of votes for directors to be duly elected to such offices.

§ 9. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last mentioned counties and no board of supervisors of any county in which any portion of the lands embraced in such district are situated, shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of the district shall be complete.

§ 10. Such election on organization may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

§ 11. The directors elected at the election hereinbefore provided for shall immediately enter upon their duties as such upon qualifying in the manner herein provided. Said directors shall hold office respectively until their successors are elected and qualified.

§ 12. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

§ 13. The board of directors shall hold regular meetings in their office on the first Tuesday in March, June, September and December, and such special meetings as may be required for the proper transaction of business; provided, that all special meetings must be ordered by a majority of the board by an order entered in the minutes specifying the business to be transacted. Three

days' notice to any member not joining in the order must be given by the secretary, and only the business specified in the order must be transacted at such special meeting. All meetings of the board must be public, and a majority of members shall constitute a quorum for the transaction of business. A minute of all proceedings of the board shall be kept by the secretary, and all records of the board shall be open to public inspection during business hours. The board of directors shall, on the first Tuesday in March of each and every year, render, and immediately thereafter cause to be published, a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some paper published in the county where the office of the board of directors of such district is situated.

§ 14. The board shall have the power and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; to adopt a seal for the district to be used in the attestation of proper documents; provided for the payment, from the proper fund, of all the debts and just claims against the district; employ and appoint when necessary, engineers to survey, plan, locate, and estimate the cost of the works necessary for drainage and the land needed for right of way, including drains, canals, sluices, water-gates, embankments and material for construction, and to construct, maintain, and keep in repair all works necessary for the purpose of drainage. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary drainage works and the line for any canals, sluices, water-gates and embankments, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, hold and possess either by donation, purchase or condemnation, any land or other property, necessary for the construction, use, maintenance, repair, and improvement of any works required for the purpose of drainage as provided herein. The board may establish equitable by-laws, rules and regulations necessary or proper for carrying on the business herein contemplated, and generally may perform all such acts as shall be necessary to fully carry out the purposes of this act.

§ 15. The board of directors, when they deem it advisable for the best interests of the district and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions and election precincts of the district; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the division must be shown on the minutes of the board.

§ 16. In case of condemnation proceedings, the board shall proceed, in the name of the district, under the provisions of title seven, part three, of the Code of Civil Procedure, which said provisions are hereby made applicable for that purpose, and it is hereby declared that the use of the property which may be condemned, taken, or appropriated under the provisions of this act, is a public use, subject to regulation and control of the state in the manner prescribed by law.

§ 17. In each district organized as herein provided, an election shall be held on the first Wednesday in February, nineteen hundred and five, and on the first Wednesday in February of each second year thereafter, at which a board of directors for the district, as provided in section five of this act, shall be elected. The person receiving the highest number of votes for the office to be filled at such election, is elected thereto. Within ten days after receiving their respective certificates of election, each of said persons shall qualify as such by taking and subscribing the official oath and filing a bond as herein provided. Each director shall execute an official bond in the sum of one thousand dollars, which shall be approved by the judge of the superior court of the county where the organization of the district was effected and shall be recorded in the office of the county recorder of such county and then, together with his official oath, filed with the secretary of the board of directors. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers. If a vacancy shall occur in the office of director the same shall be filled by appointment by the supervisors of the county where such district is organized. A director so appointed shall qualify within ten days after receiving notice of his appointment as in said act provided, if he were elected to such office and he shall hold such office only until the next regular election for said district and until his successor is elected and qualified.

§ 18. On the first Tuesday in March next following the election, the directors who shall have been elected at the general February election, shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. And the directors of districts now organized, who shall have been elected at the general February election of nineteen hundred and five, shall, on the first Tuesday in March next thereafter, when they meet to organize, first classify themselves by lot into two classes as nearly equal in number as possible. And the terms of office of the class having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years. The office of the board of directors of any such district may be established by said board of directors at the county seat, or at some proper and convenient place within the district, but after the office is once established it shall not be changed without giving notice thereof by posting in three public places in the district and by publishing a similar notice for thirty days in some newspaper of general circulation published in the county where such district is organized.

§ 19. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a similar notice of the same in a conspicuous place in the office of the said board, specifying the polling-places of each precinct, and the names of the members of the boards of election, for each precinct. Prior to the time for posting such notices, the board must appoint for each precinct, from the electors thereof, one inspector and one judge and one clerk, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed, or any of them do not attend at the opening of the polls on the morn-

ing of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors must in its order appointing the board of election, designate the place within each precinct where the election must be held.

§ 20. The inspector is chairman of the election board, and may administer all oaths required in the progress of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be open at nine o'clock a. m., and be kept open until four o'clock p. m., when the same must be closed. The provisions of the general election laws concerning the form of ballots to be used shall not apply to elections held under this act.

§ 21. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws in this state.

§ 22. As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge and the inspector. One of said certificates with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct" and be directed to the secretary of the board of directors and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

§ 23. No list, tally paper, or certificate from any election, shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been

received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for and declaring the result thereof.

§ 24. The secretary of the board of directors, must, as soon as the result is declared, enter in the records of such board, a statement of such result, which statement must show: (a) the whole number of votes cast in the district and in each precinct thereof if there be more than one precinct; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

§ 25. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected, by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

§ 26. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such drainage district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess said property as herein provided. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such drainage district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect, or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such drainage district.

§ 27. For the purpose of constructing necessary conduits, drains, sluices, water-gates, embankments and all works necessary for the purpose of drainage, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this act, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the construction fund has been exhausted by expenditures as herein authorized therefrom, and it is necessary to raise additional money for said purposes, estimate and determine the amount of money

necessary to be raised. And thereafter said board shall immediately call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of said district shall be issued in the amount so determined. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes" or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. Whenever thereafter, a petition of the character hereinbefore provided for in this section, is presented to the board, it shall so declare of record in its minutes, and shall thereupon submit such questions to said electors in the same manner and with like effect as at such previous election.

§ 28. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in ten series as follows, to wit: On the first day of January after the expiration of eleven years, five per centum of the whole number of said bonds; on the first day of January after the expiration of twelve years, six per centum; on the first day of January after the expiration of thirteen years, seven per centum; on the first day of January after the expiration of fourteen years, eight per centum; on the first day of January after the expiration of fifteen years, nine per centum; on the first day of January after the expiration of sixteen years, ten per centum; on the first day of January after the expiration of seventeen years, eleven per centum; on the first day of January after the expiration of eighteen years, thirteen per centum; on the first day of January after the expiration of nineteen years, fifteen per centum; and on the first day of January after the expiration of twenty years, sixteen per centum; that the several enumerated percentages being of the entire amount of the bond issue, but each bond must be made payable at a given time for its entire amount and not for a percentage. Said bonds shall bear interest at the rate of five per centum per annum, payable semiannually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed and the bonds of each issue shall be numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face

that they were signed by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser.

§ 29. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous, to raise money for the construction of said drains and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of the bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder; provided, however, that they may reject all bids. Said board shall in no event sell any of the said bonds for less than the par value thereof.

§ 30. Any bonds issued under the provisions of this act, shall be a lien upon the property of the district and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments as hereinafter provided.

§ 31. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be unavailable for the completion of the plan of drainage and works adopted, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted, the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the

words "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall proceed in the manner prescribed in sections forty to forty-three herein provided for raising funds for the annual requirements; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

§ 32. Whenever a district organized under the provisions of this act, has outstanding bonds, coupons, or other evidences of indebtedness, the payment thereof may be provided for by the issuance of new bonds, in the manner hereinafter prescribed.

§ 33. In order to propose the funding of such bonds, coupons, or other evidences of indebtedness a petition shall be presented to the board of directors of such drainage district, signed by a majority in number of holders of title or evidences of title to real property in such district, which petition shall set forth the amount of bonds, coupons, or other evidences of indebtedness proposed to be funded, together with a general description of same, also the total amount of the bonds sought to be issued (provided, that said amount shall in no case be greater than the total amount of bonds, coupons, and other evidences of indebtedness then outstanding and sought to have funded), together with a full and complete statement of the purposes for which such bonds are to be used. On presentation of such petition, the same shall be entered in full on the minutes of the board.

§ 34. Immediately after the recording of said petition, the board shall call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of such district in the amount set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election preeinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks before such election. Such notice must specify the time of holding the election, the amount of bonds proposed to be issued, the amount of bonds, coupons or other evidences of indebtedness proposed to be funded, together with a general description of the same. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election, the ballots shall contain the words "Bonds—Yes" or "Bonds—No" or words equivalent thereto. If two thirds of the votes cast are "Bonds—Yes" the board of directors shall cause bonds in said amount to be issued. If more than one third of the votes cast at such election are "Bonds—No," the result of such election shall be so declared. The result in either case shall be duly entered of record.

§ 35. If said bonds are directed to be issued as herein provided for, the board of directors shall cause the same to be issued. Said bonds shall be made payable in gold coin of the United States, in twenty series, as follows,

to wit: On the first day of January after the expiration of twenty years, five per centum of the whole amount of said bonds, and on the first day of January of each year thereafter, an equal amount of such bonds until all shall have been finally paid; that is, five per centum of the whole issue of bonds—not five per centum of each bond, each being wholly payable when due. Said bonds shall bear interest at the rate of five per centum per annum, payable semiannually on the first day of January and July of each year. They shall be negotiable in form, and shall be of denominations of not less than one hundred dollars nor more than five hundred dollars. Said bonds shall in all respects conform to the form of bonds prescribed hereinbefore.

§ 36. It shall be unlawful to sell or exchange any of the bonds as herein provided for less than their par value.

§ 37. When bonds issued under section thirty-five of this act shall be duly executed, they shall be deposited with the treasurer of the county wherein the district was organized, who is hereby authorized and charged with the duty of receiving the same, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entered on their records to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of indebtedness, the said treasurer shall at once cancel such other bonds, coupons, or other evidences of indebtedness by writing across the face thereof "Canceled" and the date of cancelation, and report the same with his next regular report hereinafter provided for to the board of directors of the district designating the bond, coupon, or other evidence of indebtedness, so that it can be identified, the date of cancelation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

§ 38. When said bonds are issued for the purpose of sale to the highest bidder, the board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money to pay bonds, coupons, or other evidences of indebtedness of the district which were outstanding at the time of the filing of said petition, and generally described therein. Resolution of intention must be declared, and notice given, and the sale conducted in the manner prescribed in section twenty-nine of this act for the sale of original bonds. Said bonds shall in no event be sold for less than their par value including accrued interest. All moneys realized from the sale of bonds, issued under the provisions of this section, shall be paid into the hands of the said treasurer, and by him kept in a separate fund, known as the funding fund, and shall be applied exclusively to the payment of bonds, coupons, or other evidences of indebtedness of the district outstanding at the time of filing of the said petition, and described therein.

§ 39. The bonds issued as herein provided for may be exchanged, at not less than their par value, including accrued interest, for any of the indebtedness set out and described in the notice of the election authorizing the issu-

ance of said refunding bond. A contract for such exchange may be made by the board of directors upon such terms as said board may deem advisable; provided, that they must receive not less than par value for the bonds so exchanged.

§ 40. The board of directors must, on or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, or if such district is not entirely within one county, then as hereinafter provided, to the supervisors and auditors of each county in which any portion of the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year. This amount must be sufficient to raise the annual interest on the outstanding bonds, to pay the estimated cost of repairs, the incidental expenses of the district, and in any year in which any bonds shall fall due, an amount sufficient to pay the principal of the outstanding bonds as they mature.

§ 41. If such district is in more than one county the total estimate as provided for in the preceding section shall be divided by the board of directors in proportion to value of the real property of the district in each county. This value must be determined from the equalized values of the last assessment rolls of such counties. When such division of the estimate has been made, the board shall furnish the supervisors and auditors of the respective counties a written statement of that part of the estimate apportioned to that county.

§ 42. The board of supervisors of each county wherein is situated a district or any part thereof organized under the provisions of this act, must, annually, at the time of levying county taxes, levy a tax to be known as the “——— (name of district) drainage district tax,” sufficient to raise an amount reported to them as herein provided, by the board of directors. The supervisors must determine the rate of such tax by deducting fifteen per centum for anticipated delinquencies from the total assessed value of the real property of the district within the county as it appears on the assessment roll of the county, and then dividing the sum reported by the board of directors as required to be raised by the remainder of such total assessed value.

§ 43. The tax so levied shall be computed and entered on the assessment roll by the county auditor, and if the supervisors fail to levy the tax as provided in the preceding section, then the auditor must do so. Such tax shall be collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of said district.

§ 44. The provisions of the Political Code of this state prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto, are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

§ 45. If the district is in more than one county, the treasury of the county wherein the district was organized shall be the repository of all the funds

of the district. For this purpose the treasurers of any other counties wherein is situated a portion of said district, must, at any time, not oftener than twice each year, upon the order of the board of directors, settle with said board and pay over to the treasurer of the county where the district was organized, all moneys in their possession belonging to the district. Said last-named treasurer is authorized and required to receive and receipt for the same, and to place the same to the credit of the district. He shall be responsible upon his official bond for the safe-keeping and disbursement, in the manner herein provided, of these and all other moneys of the district held by him.

§ 46. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned by the treasurer, to wit: Bond fund, construction fund, general fund, funding fund.

§ 47. The treasurer shall pay out of the same only upon warrants of the board of directors, signed by the president and attested by the secretary. The treasurer shall report in writing at each regular meeting of the board of directors and as often thereafter as requested by the board, the amount of money in the fund, the amount of receipts since his last report, and the amounts paid out; such reports shall be verified and filed with the secretary of the board.

§ 48. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States bonds, or the bonds of the state, which shall be kept in said "bond fund" and may be used to redeem said district bonds whenever the holders thereof may desire.

§ 49. After adopting a plan for such conduits, drains, pumping plants, water-gates and other works, as in this act provided for, the board of directors shall give notice by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein) and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the

time and place for opening said proposals, which, at the time and place appointed shall be opened in public; and as soon as convenient thereafter the board shall let said work, whether in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use for fifty per centum of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

§ 50. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary.

§ 51. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund.

§ 52. The board of directors shall have power to construct the works necessary for drainage purposes across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said conduits or drains may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in such manner as not to have impaired unnecessarily its usefulness; and every company whose railroad, and the board of supervisors, where any public highway shall be intersected or crossed by said works, shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company, or said board of supervisors, or the owners and controllers of said property, thing, or franchise so to be crossed, and said board cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of property by condemnation. The right of way is hereby given, dedicated, and set apart, to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this state.

§ 53. Each member of the board of directors shall receive three dollars per day for each day's attendance at the meetings of the board, and actual and necessary expenses while engaged in official business under the order of the board.

§ 54. No director or any other officer named in this act shall in any manner be interested, directly or indirectly in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars or by im-

prisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

§ 55. The board of directors may at any time, when in their judgment it may be deemed advisable call a special election and submit to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section twenty-seven of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes" or "Assessment—No." If two thirds or more of the votes cast are "Assessment—Yes," the board shall proceed in the manner hereinbefore prescribed for raising the annual funds by taxation. When collected, the money shall be paid into the district treasury for the purposes specified in the notice of such special election.

§ 56. The board of directors shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void; except for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per centum per annum.

§ 57. The rights of way, ditches, drains, conduits, flumes, pipe-lines, dams, reservoirs, pumping plants, and other property of like character belonging to any drainage district shall not be taxed for state and county or municipal purposes.

§ 58. The board of directors shall within thirty days after the issue of any bonds herein provided for bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within thirty days after the full publication of such summons in the manner herein provided. Any one interested may, at any time before the expiration of said thirty days, appear and by proper proceedings contest the validity of such bonds, and may in the same action or proceeding contest the validity of any bonds, coupons, or other evidences of indebtedness referred to in the petition for funding and proposed to be funded, and if any such bonds, coupons, or evidences of indebtedness be shown to be invalid, then the same shall only be funded for the amount of such proportion thereof as equals the fair and reasonable value of whatever the district may have

received in consideration therefor, together with unpaid interest thereon, and the amount of such proportion shall be determined and adjudicated by the court in said action or proceeding. Such action shall be speedily tried and judgment rendered declaring such bonds so contested either valid or invalid. Either party shall have the right to appeal at any time within thirty days after the entry of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

§ 59. If no such proceeding shall have been taken by the board of directors, then at any time after thirty days and within ninety days after the issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located, to determine the validity of any such bonds. The board of directors shall be made parties defendant and service of summons shall be made on the members of the board personally, if they can be found within the state; if not, then by publication for three weeks in some newspaper of general circulation within the county wherein the office of the board of directors is located, such newspaper to be designated by the court having jurisdiction. Before such publication can be had, an affidavit, in the usual form shall be made, showing such facts. Said board shall have the right to appear and contest such action. Notice of said action shall be given by publication of summons therein in the same manner and for the same time as required in the preceding section hereof in actions brought by the publication of such summons in the manner herein provided. Any district assessment payer or any one interested may appear and defend said action, and thereafter the same proceedings shall be had in such action as are hereinbefore provided for in the preceding section hereof in actions brought by the board of directors, and the same matters determined and adjudicated by the court therein. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined within three months from the time of taking such appeal.

§ 60. At the hearing of such proceedings the court shall hear and determine the sufficiency of all proceedings.

§ 61. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

§ 62. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The costs of any hearing or contest herein provided for may be allowed and apportioned between the parties or attached to the losing party, in the discretion of the court.

§ 63. No contest of any matter or thing herein provided for shall be made other than within the time and manner herein specified.

§ 64. The boundaries of any drainage district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of this act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was or may become liable or chargeable, had said change of its boundaries not been made, or had not such land been excluded from the district.

§ 65. The owner or owners in fee of one or more tracts of land which constitute a portion of a drainage district, may, jointly or severally, file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner, or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

§ 66. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or, if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

§ 67. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence of proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down, in shorthand, and

a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceedings shall be paid by the person or persons filing such petition.

§ 68. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district.

§ 69. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

§ 70. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the land of the

district; but said district, notwithstanding such exclusion, shall be and remain a drainage district as fully to every intent and purpose as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

§ 71. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

§ 72. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

§ 73. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in section sixty-five of this act mentioned, and may show cause, as herein provided, why the boundaries of the district should not be changed.

§ 74. Nothing herein provided shall in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said drainage district the same as though said petition for its exclusion had never been filed or said order of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said drainage district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with

the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

§ 75. The boundaries of any drainage district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed, but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

§ 76. The holder or holders of title, or evidence of title, representing one half or more of any body of lands adjacent to the boundary of a drainage district, which are contiguous and which taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

§ 77. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear, at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings arising from such petition.

§ 78. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for

in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

§ 79. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

§ 80. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

§ 81. If any person interested in said district of the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

§ 82. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by this act in case of a special election to determine whether bonds of a drainage district shall be issued. The ballots cast at said election shall contain the words "For change of boundary" or "Against change of boundary" or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

§ 83. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order

that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

§ 84. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a drainage district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

§ 85. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition.

§ 86. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in section seventy-six of this act mentioned and may show cause why the boundaries of the district should not be changed.

§ 87. In case of the inclusion of any land within any district by proceedings under this act, the board of directors, must, at least thirty days prior to the next succeeding general election, make an order redividing such district, into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third and so on, and one elector shall thereafter be elected by each division. For the purpose of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time as the board may deem necessary.

§ 88. Whenever the board of directors of a drainage district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such drainage district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

§ 89. Notice of the said election shall be given in the same manner as provided in section twenty-seven of this act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held

and the polling-places, as established by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes" then in that event the board of directors shall only be empowered to issue or sell the amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

§ 90. In case there be outstanding bonds of any district desiring to take advantage of the provisions of sections eighty-eight and eighty-nine of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section sixty-nine of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of said sections of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

§ 91. Whenever there remains in the hands of the board of directors of any drainage district organized under the provisions of this act, after the completion of its drainage system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds, for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

§ 92. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section twenty-seven of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling-places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes" and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

§ 93. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed, and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

§ 94. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to

property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract obligation, lien, or charge, for or upon which it was or might become liable or chargeable had not this act been passed.

§ 95. Nothing in this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of drainage except such as may be contained in the act entitled "An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands," approved March thirty-first, eighteen hundred and ninety-seven, and any subsequent acts supplementary thereto, or amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

§ 96. This act shall take effect from and after its passage and approval.

See note after next following statute.

DRAINAGE—SWAMP-LANDS.

To promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie.

(Stats. 1903, 354, ch. CCLVIII.)

§ 1. Whenever ten or more landholders owning parts of any body of wet, swamp or overflowed lands susceptible of drainage by a ditch or drain, or a system of ditches or drains, shall file with the board of supervisors of the county in which said lands, or a portion thereof, are situated, a petition for the establishment of such ditch or drain, or system of ditches or drains, for the draining of said body of lands, defining the boundaries of such body of lands and the location and courses of such ditch or drain, or system of ditches or drains, through said body of lands, and the lands through which it or they are to pass to their outlets, and shall give said supervisors a good and sufficient bond for the payment of all costs that may accrue provided said petition shall not be granted, said supervisors shall, within thirty days of the filing of said petition, appoint a day for the hearing of the same, which shall not be less than fifteen nor more than forty days from such appointment; and shall, also, cause to be published in some newspaper published and having a general circulation in the county, a copy of said petition together with a notice by the clerk of said board of the time and place set for hearing said petition; said publication shall be in a daily or weekly newspaper and for at least two weeks next preceding the time set for said hearing.

§ 2. Said supervisors shall also direct the county surveyor to survey the line or lines of said proposed ditch or drain, or system of ditches or drains, taking notes of the descent of the land and the character thereof, and report to said board, on or before said day of hearing, the descent, if any, between the head and outlet of said ditch or ditches, together with a list of intermediate grades, the lands benefited by said proposed ditch or ditches, and such other information as may come under his notice upon the matter of such proposed location. In locating such ditches or drains, whenever practicable, they shall be located on section or subdivision lines, but the said surveyor may, in surveying the same,

follow the lines of location described in said petition or vary therefrom as he may deem for the greatest advantage of said lands and the best location of said ditch or ditches.

§ 3. Upon the hearing of said petition any person interested in the lands described therein, or the community in which the same are located, may appear and support or oppose the granting of said petition, and witnesses may be sworn and testify in reference thereto.

§ 4. If the supervisors shall, on hearing the petition, find that the construction of the ditch or drain, or system of ditches or drains, petitioned for (or as modified by the report of the surveyor) would be advisable, and beneficial to the lands described in the petition, or a smaller body lying within the same, and such body of lands so to be benefited constitute the lands of a farming community or neighborhood, or that the construction of said ditch or drain, or system of ditches or drains, would be conducive to the health of the community or neighborhood in which they lie, then, the supervisors shall, in their discretion, grant said petition for the construction of said ditch or drain, or system of ditches or drains, as prayed for (or as modified by the report of the surveyor) and shall proceed to examine the lands affected thereby, and shall direct the surveyor to survey the same and set stakes every hundred feet, and to make a journal of the depth and width to be excavated at each of said stakes. If, upon the hearing, the said supervisors shall find the location of said ditch or ditches unadvisable, the petition shall be denied and the costs of the proceedings shall be collected from the petitioners or their bondsmen.

§ 5. After having made such examination of the lands so affected said supervisors shall then apportion the excavation of said ditch and the cost of location (including the cost of right of way, when necessary) and superintendence of construction by the surveyor, to the lands affected thereby, according to the benefits received, after giving notice to the owners of such lands of the time and place of making such apportionment, and giving to each a hearing. The names of such owners may be taken from the last assessment books of the county wherein such lands are situate, and such notice shall be in writing, delivered to each landowner resident upon such land so affected, or left at his place of residence with some competent person, at least ten days before the time set for said hearing, and to each landowner not resident upon such lands so affected, by depositing the same in the post-office directed to him at his place of residence or address, at least twelve days before said time so set for said hearing, and in case the residence or post-office address of such non-resident be not known, then by posting said notice in a prominent place on the lands so affected and owned by him, at least twelve days before the time set for said hearing. All notices provided for in this act shall be given by the clerk of said board of supervisors, by and under their direction and authority.

§ 6. After having completed said hearing and apportionment, the board shall then give notice in the same manner as provided in section five, to all the landowners of the part of ditch apportioned to them, as described by the stakes and their numbers, and of the specifications of the ditch, and, also, of the cost of location and superintendence of construction (and right of way, when necessary); and said notice shall also specify the time set for the completion of the work and the payment of the cost of location, superintendence and right of way.

§ 7. On the day set for the completion of the work, or as soon thereafter as is practicable, the county surveyor shall proceed to examine said ditch or ditches, and if, in his opinion, any portion thereof shall not be completed according to the specifications, he shall report the same to the board of supervisors, who shall fix a reasonable time within which the same shall be completed, and shall notify the person to whom said portion was apportioned to complete the same within such time. If not so completed, at the expiration of the time specified said board of supervisors shall advertise the construction of the same by posting notices for two weeks in three conspicuous places within the territory affected by said ditch. Upon the time specified in said notice said supervisors shall proceed to let the same to the lowest responsible bidder, who shall give such bonds as shall be required by said board, and shall proceed to complete such works in the time agreed upon. The board shall report the cost of such work to the county auditor, who shall cause the amount thereof to be entered on the tax books of the county, and the same shall be a tax upon said lands, which amount shall be collected the same as other taxes, and paid to the person performing such work. The cost of location and supervision, and right of way, if not paid at the time required, shall also be reported in like manner to the county auditor and collected as a tax upon the lands affected and paid to the county treasurer.

§ 8. The county treasurer shall place such funds to the credit of each respective ditch fund and shall pay out the same on warrants drawn by the board of supervisors. The treasurer shall receive, as compensation for his services, one per centum of all moneys by him disbursed under this act.

§ 9. The county surveyor shall superintend the construction of all ditches and drains constructed under the provisions of this act, and when constructed they shall be in charge of the officer having charge and supervision of the roads in the district in which they lie. The owners of lands to whom they have been apportioned, shall keep in repair such ditches in accordance with the apportionment, and if not so kept in repair, the board of supervisors shall direct the same to be done, and the cost thereof shall be a tax upon the land, to be collected as hereinbefore provided.

§ 10. Any person causing an encroachment or obstruction to any ditch or drain created under the provisions of this act, and failing to remove the same for the space of twenty-four hours after notice shall have been given to such person by the roadmaster, if he can be found in the county, otherwise by posting by him at or near the place of encroachment or obstruction, may be fined not exceeding two hundred dollars, or imprisoned not more than thirty days in the county jail, or by both such fine and imprisonment. The fines so collected shall be placed to the credit of the district road fund where such encroachment or obstruction is had, and proceedings for such offenses may be had before any court of competent jurisdiction.

§ 11. The provisions of this act shall not be construed so as to permit waters to be carried out of their natural course to augment other streams or drains, to the damage of the residents along the banks of the streams or drains so augmented.

§ 12. Whenever the board of supervisors cannot purchase, at a reasonable price, or procure the right of way, or procure the consent of all parties interested

to join or connect with any existing ditches or outlets, the president of the board may proceed to condemn the same under the provisions of title seven, part three, of the Code of Civil Procedure, and amendments thereto, which are now existing or may hereafter be made.

§ 13. This act is not intended to supersede or repeal any other act for the construction or maintenance of ditches or for drainage purposes, but is intended as an independent and alternative means of constructing such ditches where most applicable or desirable to the parties interested.

§ 14. This act shall take effect and be in force from and after its passage.

DRAINAGE.—There are various special acts for draining lands in particular counties, as: 1865-6, 451, Colusa, Yolo and Solano; 1877-8, 1037, Yolo and Colusa, but the compass of this work necessarily excludes their publication.

The Statute of 1881, 15, amended 1897, 220, is cited in *Holley vs. County Orange*, 106 Cal. 420, 422, 39 Pac. Rep. 790, held unconstitutional in *Nickey vs. Stearns Ranchos Co.*, 126 Cal. 150, 151, 58 Pac. Rep. 459.

The Statute of 1897, 334, relating to agricultural lands other than swamp, etc., amended 1901, 554, is repealed by the new Act of 1903, 291 (see sec. 95 of latter act).

As to Stats. 1897, 334, see *Justice vs. Robinson*, 142 Cal. 199-201, 75 Pac. Rep. 776.

See **DRAINAGE CONSTRUCTION FUND**, ante, **STATE FUNDS**.

See also post **PUBLIC WORK; AUDITING BOARD**.

DRUG STORES—HOURS OF WORK.

To regulate the work and hours of employees engaged in selling, at retail, drugs and medicines, and compounding physicians' prescriptions, and providing a penalty for the violation thereof.

(Stats. 1905, 28, ch. XXXIV.)

§ 1. As a measure for the protection of public health, no person employed by any person, firm or corporation, shall for more than an average of ten hours a day or sixty hours a week of six consecutive calendar days, perform the work of selling drugs or other medicines, or compounding physicians' prescriptions, in any store, establishment or place of business, where and in which drugs or medicines are sold, at retail, and where and in which physicians' prescriptions are compounded; provided that the answering of and attending to emergency calls shall not be construed as a violation of this act.

§ 2. No person, firm or corporation employing another person to do work which consists wholly or in part of selling, at retail, drugs or medicines, or of compounding physicians' prescriptions, in any store, or establishment or place of business where or in which medicines are sold and where and in which physicians' prescriptions are compounded shall require or permit said employed person to perform such work for more than an average of ten hours a day, or sixty hours a week of six consecutive calendar days.

§ 3. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of misdemeanor and shall be punished therefor by a fine not less than twenty dollars nor more than fifty dollars, or by imprisonment for not exceeding sixty days, or by both such fine and imprisonment, at the discretion of the court.

§ 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

LABOR LAWS—Fixing hours of labor.—The state of New York passed a statute essentially the same as the above in its name
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and purpose, but relating to employees in bakeries. This statute is as follows:

"No employee shall be required or permit-

ted to work in a biscuit, bread, or cake bakery or confectionery establishment more than sixty hours in any one week, or more than ten hours in any one day, unless for the purpose of making a shorter workday on the last day of the week; nor more hours in any one week than will make an average of ten hours per day for the number of days during such week in which such employee shall work," and has a penalty attached for a violation thereof.

Joseph Lochner was indicted for a violation of the above law and convicted in the trial court. The conviction was affirmed by the appellate division and also by the court of appeals, and thereupon taken to the supreme court of the United States (*Lochner vs. State*, May 15, 1905, vol. 197 U. S. —, bk. 49 L. ed. 539, 25 Sup. Ct. Rep. 539), wherein by a bare majority the law was held unconstitutional and the judgment of conviction reversed. Mr. Justice Peckham, writing the majority opinion, says:

"There is nothing in any of the opinions delivered in this case, either in the supreme court or the court of appeals of the state, which construes the section, in using the word 'required,' as referring to any physical force being used to obtain the labor of an employee. It is assumed that the word means nothing more than the requirement arising from voluntary contract for such labor in excess of the number of hours specified in the statute. There is no pretense in any of the opinions that the statute was intended to meet a case of involuntary labor in any form. All the opinions assume that there is no real distinction, so far as this question is concerned, between the words 'required' and 'permitted.' The mandate of the statute, that 'no employee shall be required or permitted to work,' is the substantial equivalent of an enactment that 'no employee shall contract or agree to work,' more than ten hours per day; and, as there is no provision for special emergencies, the statute is mandatory in all cases. It is not an act merely fixing the number of hours which shall constitute a legal day's work, but an absolute prohibition upon the employer permitting, under any circumstances, more than ten hours' work to be done in his establishment. The employee may desire to earn the extra money which would arise from his working more than the prescribed time, but this statute forbids the employer from permitting the employee to earn it."

LIMIT TO VALID EXERCISE OF POLICE POWER.—The court say: "It must, of course, be conceded that there is a limit to the valid exercise of the police power by the state. There is no dispute concerning this general proposition. Otherwise the XIV amendment would have no efficacy and the legislatures of the states would have unbounded power, and it would be enough to say that any piece of legislation was enacted to conserve the morals, the health, or the safety of the people; such legislation would be valid, no matter how absolutely without foundation the claim might be. The claim of the police power

would be a mere pretext,—become another and delusive name for the supreme sovereignty of the state to be exercised free from constitutional restraint. This is not contended for. In every case that comes before this court, therefore, where legislation of this character is concerned, and where the protection of the federal constitution is sought, the question necessarily arises: Is this a fair, reasonable, and appropriate exercise of the police power of the state, or is it an unreasonable, unnecessary, and arbitrary interference with the right of the individual to his personal liberty, or to enter into those contracts in relation to labor which may seem to him appropriate or necessary for the support of himself and his family? Of course the liberty of contract relating to labor includes both parties to it. The one has as much right to purchase as the other to sell labor.

"This is not a question of substituting the judgment of the court for that of the legislature. If the act be within the power of the state, it is valid, although the judgment of the court might be totally opposed to the enactment of such a law. But the question would still remain, Is it within the police power of the state? and that question must be answered by the court."

INTERFERENCE WITH CONTRACT.—Fourteenth amendment.—The court say: "The statute necessarily interferes with the right of contract between the employer and employees, concerning the number of hours in which the latter may labor in the bakery of the employer. The general right to make a contract in relation to his business is part of the liberty of the individual protected by the XIV amendment of the federal constitution. (*Allgeyer vs. Louisiana*, 165 U. S. 578, bk. 41 L. ed. 832, 17 Sup. Ct. Rep. 427.) Under that provision no state can deprive any person of life, liberty, or property without due process of law. The right to purchase or to sell labor is part of the liberty protected by this amendment, unless there are circumstances which exclude the right. There are, however, certain powers, existing in the sovereignty of each state in the Union, somewhat vaguely termed police powers, the exact description and limitation of which have not been attempted by the courts. Those powers, broadly stated, and without, at present, any attempt at a more specific limitation, relate to the safety, health, morals, and general welfare of the public. Both property and liberty are held on such reasonable conditions as may be imposed by the governing power of the state in the exercise of those powers, and with such conditions the XIV amendment was not designed to interfere. (*Mugler vs. Kansas*, 123 U. S. 623, bk. 31 L. ed. 205, 8 Sup. Ct. Rep. 273; *In re Kemmler*, 136 U. S. 436, bk. 34 L. ed. 519, 10 Sup. Ct. Rep. 930; *Crowley vs. Christensen*, 137 U. S. 86, bk. 34 L. ed. 620, 11 Sup. Ct. Rep. 13; *In re Converse*, 137 U. S. 624, bk. 34 L. ed. 796, 11 Sup. Ct. Rep. 191.)

"The state, therefore, has power to prevent the individual from making certain kinds of contracts, and in regard to them

the federal constitution offers no protection. If the contract be one which the state, in the legitimate exercise of its police power, has the right to prohibit, it is not prevented from prohibiting it by the XIV amendment. Contracts in violation of a statute, either of the federal or state government, or a contract to let one's property for immoral purposes, or to do any other unlawful act, could obtain no protection from the federal constitution, as coming under the liberty of person or of free contract. Therefore, when the state, by its legislature, in the assumed exercise of its police powers, has passed an act which seriously limits the right to labor or the right of contract in regard to their means of livelihood between persons who are *sui juris* (both employer and employee), it becomes of great importance to determine which shall prevail,—the right of the individual to labor for such time as he may choose, or the right of the state to prevent the individual from laboring, or from entering into any contract to labor, beyond a certain time prescribed by the state."

VALIDITY OF LABOR LAW—Laborers not wards of state.—Mr. Justice Peckham further says: "The question whether this act is valid as a labor law, pure and simple, may be dismissed in a few words. There is no reasonable ground for interfering with the liberty of person or the right of free contract, by determining the hours of labor, in the occupation of a baker. There is no contention that bakers as a class are not equal in intelligence and capacity to men in other trades or manual occupations, or that they are not able to assert their rights and care for themselves without the protecting arm of the state interfering with their independence of judgment and of action. They are in no sense wards of the state. Viewed in the light of a purely labor law, with no reference whatever to the question of health, we think that a law like the one before us involves neither the safety, the morals, nor the welfare of the public, and that the interest of the public is not in the slightest degree affected by such an act. The law must be upheld, if at all, as a law pertaining to the health of the individual engaged in the occupation of a baker. It does not affect any other portion of the public than those who are engaged in that occupation. Clean and wholesome bread does not depend upon whether the baker works but ten hours per day or only sixty hours a week. The limitation of the hours of labor does not come within the police power on that ground.

"It is a question of which of two powers or rights shall prevail,—the power of the state to legislate or the right of the individual to liberty of person and freedom of contract. The mere assertion that the sub-

ject relates, though but in a remote degree, to the public health, does not necessarily render the enactment valid. The act must have a more direct relation, as a means to an end, and the end itself must be appropriate and legitimate before an act can be held to be valid which interferes with the general right of an individual to be free in his person and in his power to contract in relation to his own labor.

"We think the limit of the police power has been reached and passed in this case. There is, in our judgment, no reasonable foundation for holding this to be necessary or appropriate as a health law to safeguard the public health, or the health of the individuals who are following the trade of a baker. If this statute be valid, and if, therefore, a proper case is made out in which to deny the right of an individual, *sui juris*, as employer or employee, to make contracts for the labor of the latter under the protection of the provisions of the federal constitution, there would seem to be no length to which legislation of this nature might not go. The case differs widely, as we have already stated, from the expressions of this court in regard to laws of this nature, as stated in *Holden vs. Hardy*, 169 U. S. 366, bk. 42 L. ed. 780, 18 Sup. Ct. Rep. 383, and *Jacobson vs. Massachusetts*, 197 U. S. 11, 49 L. ed. 358, 25 Sup. Ct. Rep. 358."

EMERGENCY CLAUSE.—It will be observed that our statute has no emergency clause. Neither has the New York law. On this subject the court, calling attention to the fact that the Utah law (regulating the hours in underground mines and smelters.—See *Holden vs. Hardy*, 169 U. S. 366, bk. 42 L. ed. 780, 18 Sup. Ct. Rep. 383) had an emergency clause, remarks: "The statute now before this court has no emergency clause in it, and, if the statute is valid, there are no circumstances and no emergencies under which the slightest violation of the provisions of the act would be innocent. There is nothing in *Holden vs. Hardy* which covers the case now before us. Nor does *Atkin vs. Kansas*, 191 U. S. 207, bk. 48 L. ed. 148, 24 Sup. Ct. Rep. 124, touch the case at bar. The *Atkin* case was decided upon the right of the state to control its municipal corporations and to prescribe the conditions upon which it will permit work of a public character to be done for a municipality. *Knoxville Iron Co. vs. Harbison*, 183 U. S. 13, 46 L. ed. 55, 22 Sup. Ct. Rep. 1, is equally far from an authority for this legislation. The employees in that case were held to be at a disadvantage with the employer in matters of wages, they being miners and coal workers, and the act simply provided for the cashing of coal orders when presented by the miner to the employer."

DRUGS.

See Pharmacy.

DRUGS, FOOD AND WATERS.

See **Adulteration; State Analyst.**

DRUNKENNESS.

See **Intoxicating Liquors; Officers—Intoxication of.**

DYNAMITE.

See **Explosives.**

EEL RIVER—TO PROTECT BANKS OF.

To appropriate money to protect the banks of Eel River from erosion by means of jetty work along the banks thereof.

(Stats. 1905, 799, ch. DC.)

§ 1. The sum of thirty-two thousand dollars is hereby appropriated out of any money in the state treasury of the state of California not otherwise appropriated to be used for the purpose of protecting the banks of Eel River from erosion, by jetty work along the banks thereof at the points and in the manner hereinafter specified, said money to be expended in sections three, ten and eleven, township two north, range one west, Humboldt meridian, by and under the direction of the commissioner of highways, in accordance with a survey, estimates and plans made by him and now on file in the office of the department of highways.

The money hereby appropriated together with any unexpended portion of the sum heretofore appropriated for survey of said river for the purpose of protecting the banks thereof shall be made available and paid out of the state treasury upon warrants drawn therefor in favor of the commissioner of highways to be expended by him for the purpose herein named, at the following times: Sixteen thousand dollars on and after the first day of July, nineteen hundred and five, and sixteen thousand dollars on and after the first day of July, nineteen hundred and six.

This appropriation is conditional upon a contribution of eight thousand dollars to be made by private individuals and placed in the Ferndale Bank at Ferndale, California, to the account of the said commissioner of highways the same to be thereafter added to the moneys hereby appropriated, and the total sum to be expended in the manner hereinbefore provided, and not otherwise. The work to be commenced as soon as the money appropriated is available and completed as fast as possible.

§ 2. The state controller is hereby authorized to draw his warrants in favor of the state commissioner of highways for the amount hereby appropriated at the times provided herein for the payment of the same, and the state treasurer is hereby directed to pay the same.

EIGHT-HOUR LAW.

See **tits. Public Buildings; Public Work, Hours of Labor.**

See also note to **tit. Drug Stores—Hours of Work**, ante, p. 417.

ELECTIONS.

Concerning special elections.

(Stats. 1877-8, 73, ch. LIV.)

§ 1. At any special election to be held in any county, except in the city and county of San Francisco, copies of the great register of such county, and in the city and county of San Francisco copies of the ward registers of said city and county, which were printed before and used at the next preceding general election shall be used.

§ 2. Before the day on which said special election is appointed to be held, the board of supervisors of the county, except the city and county of San Francisco, must furnish the board of election of each precinct in the county at least one copy of the aforesaid printed great register; and the board of supervisors of the city and county of San Francisco must furnish the board of election of each precinct in the county at least one copy of the ward register of the ward in which the precinct is located. If the board cannot otherwise obtain a sufficient number of copies of the register for the purpose, it must take the copies filed in the office of the county clerk, in pursuance of section twelve hundred and sixty-eight of the Political Code.

§ 3. If the copy of the register which shall be furnished to any precinct shall have been used at a previous election, the letter "V" may be used instead of the word "Voted," as required by section twelve hundred and twenty-eight of the Political Code.

§ 4. It shall not be the duty of the board of election to post copies of the great register, as required by section eleven hundred and forty-nine of the Political Code.

§ 5. The voter, when he offers his ballot at a polling-place, shall not be required to announce his number on the great register, as provided for in section twelve hundred and twenty-five of the Political Code.

§ 6. This act shall take effect immediately.

People ex rel. Attorney-General vs. Curry,
130 Cal. 82, 94, 62 Pac. Rep. 516.

"Special Elections," as defined by section 1043, **KERR'S CYC. POL. CODE**, are such as are held to supply vacancies in any office, and are held at such times as may be designated by the proper board or officer.

Sections 1113-1116, **KERR'S CYC. POL. CODE**, designate certain books of affidavits as the "register" to be used at elections. See also § 1204, **KERR'S CYC. POL. CODE**, and note. §§ 1094-1097, **KERR'S CYC. POL. CODE**, may be consulted also.

See **HOLIDAYS; Intoxicating Liquors.**

ELECTIONS—PURITY OF.

To promote the purity of elections by regulating the conduct thereof, and to support the privilege of free suffrage by prohibiting certain acts and practices in relation thereto, and providing for the punishment thereof.

(Stats. 1893, 12, ch. XVI; amended 1895, 227, ch. CLXXXV; 1905, 93, ch. XCV, and § 42a, added 1905, 37, ch. XLI.)

§ 1. All nominations of candidates for public office to be filled by election within this state, and presidential electors, must be filed with the proper officer within the time and in the manner prescribed by law. Every certificate of nominations made by the members of a political party, or by a convention or organ-

ized assemblage of delegates, or other body of citizens representing a political party or principle, must be signed as provided by the provisions of sections eleven hundred and eighty-seven (1187) or eleven hundred and eighty-eight (1188) of the Political Code of this state; and at the time of filing the certificate of nomination, the person signing such certificate of nomination shall also file with the officer authorized by law to receive and file such certificate the names of five persons, who have accepted, in writing, and consented to act, selected to receive, expend, audit, and disburse all moneys contributed, donated, subscribed, or in anywise furnished or raised for the purpose of aiding or promoting the election of the candidates for office or electors named in the said certificate of nomination, or in any manner to be used in respect of the conduct and management of the election at which such candidates are to be voted for. The certificate of nomination must not be received or filed unless accompanied by the names of five persons, citizens and electors of this state, to compose such committee, together with their written acceptance and consent to act as such committee, as required by this act. All independent candidates must file the names of five persons to act as an auditing committee, in the same manner and at the same time as required by all regular party nominees or candidates, and all members of such an auditing committee acting for an independent candidate are to be governed by the same laws and requirements as the auditing committee of all regular party nominees or candidates. The said committee shall have the exclusive custody of all moneys contributed, donated, subscribed, or in anywise furnished or raised for or on behalf of the political party, organized assemblage or body, or candidates represented by said committee, and shall disburse the same on proper vouchers, under the directions of the body of superior authority to which it is subject, if there be any. If, for any cause, a vacancy shall occur in the membership of said committee prior to the fifteenth day before the day of holding an election, the vacancy must be filled by the same authority as vacancies in the list of nominees are filled. No vacancy by resignation therefrom or refusal to act upon said committee shall occur after the fifteenth day before the day of holding an election, or until the said committee shall have completed and discharged all of the duties required of them by this act. If any vacancy be created by death or legal disability subsequent to the fifteenth day before the day of holding an election, such vacancy shall not be filled, and the remaining members shall discharge and complete the duties required of said committee as if such vacancy had not been created. [Amendment, Stats. 1895, 227.]

§ 2. Within twenty-one days after the completion of the official canvass of the result of the election, said committee shall file, as hereinafter provided, an itemized statement, showing in detail all the moneys contributed, donated, subscribed, or in anywise furnished or received to the use of the political party, organized assemblage, or body, or any or all of the candidates for public office, or electors coming under the control of such committee, or into their custody, directly or indirectly, together with the name of each contributor, donor, subscriber, or source from which such moneys were derived, and an itemized statement of all money expended; such statement shall give the names of the various persons to whom such moneys were paid, the specific nature of each item, by whom the service was performed, and the purpose for which it was expended.

There shall be attached to such statement an affidavit, subscribed and sworn to by each member of said committee, setting forth, in substance, that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys, securities, or equivalents for moneys coming under their control or into their custody, and by them expended, directly or indirectly. Such statement shall be filed in the same office in which is filed the certificate of their selection as such committee, and shall become a public document, and open to inspection by any citizen.

§ 3. Every candidate who is voted for at any public election held within the state shall, within fifteen days after the day of holding such election, file, as hereinafter provided, an itemized statement, showing in detail all moneys paid, loaned, contributed, or otherwise furnished to him, or for his use, directly or indirectly, in aid of his election, and all moneys contributed, loaned or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who paid, loaned, contributed, or otherwise furnished such moneys in aid of his election, and the names of the various persons to whom such moneys were contributed, loaned, or paid, the specific nature of each item, the service performed, and by whom performed, and the purpose for which the money was expended, contributed, or loaned. There shall be attached to such statement an affidavit, subscribed and sworn to by such candidate, which must be substantially in the following form:

State of California, }
County of —, } ss.

I (name), having been a candidate for the office of —, at the election held in the county, city and county, city, or other division, state of California, on the — day of —, 18—, do solemnly swear that I have paid the sum of \$— for my expenses at the said election, and no more, and that, except as aforesaid, I have not, nor to the best of my knowledge and belief has any person, club, society, or association, on my behalf, directly or indirectly, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability, on account of or in respect of the conduct or management of the said election, and except such moneys as may have been paid to or expended by the committee selected as prescribed by the act of the legislature of this state approved (date of this act). And I further solemnly swear that, except as aforesaid, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by any one, to or in the hands of myself, or any other person, for the purpose of defraying any expenses incurred on my behalf, or in aid of my election, or on account of or in respect of the conduct or management of the said election. And I further solemnly swear that I will not, at any future time, make, or be a party to the making or giving of, any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

If the candidate seeks to avoid the responsibility of any illegal payment made by any other person in his behalf, he shall set out such illegal payment and disclaim responsibility therefor. Candidates for office to be filled by the electors of

the state, or of any political division thereof greater than a county, and for members of the senate and assembly, representative in Congress, or for members of the state board of equalization, state board of railroad commissioners, shall file their statements in the office of the secretary of state. Candidates for all other offices shall file their statements in the office of the clerk of the county wherein the election is held, and within which the duties of the office for which the candidate is voted for are to be exercised. The statement and affidavit of a committee or candidate shall be recorded in the office of the county recorder, and shall, after being filed, become a public record, and open at all times to public inspection. Vouchers must be filed for all expenditures, except in the case of sums under five dollars.

§ 4. Any candidate for a public office who shall refuse or neglect to file, or who makes a false statement of moneys received or expended, as prescribed by section three of this act, shall in addition to the punishment of such offense prescribed by the laws of this state, forfeit any office to which he may have been elected at the election with reference to which the statement is required to be made. If a candidate elected to a public office refuses or neglects to file the statement prescribed by section three of this act, no certificate of election shall be issued to him, neither shall any official bond presented or offered by him be approved, and the incumbent of the office, unless he is himself a defaulting candidate, must not surrender or deliver up said office, but shall continue to discharge the duties and shall receive the emoluments thereof. If the candidate refusing or neglecting to file the statement, or making a false statement of moneys received or expended, is the incumbent of an office of profit or trust under the laws of this state, in addition to the punishment prescribed by the laws of this state for such refusal or neglect, or for making such false statement, he shall be deprived of his office, and shall also forfeit any office to which he may have been elected at the election in reference to which the statement is required to be made.

§ 5. No sum of money shall be paid and no expense shall be incurred by or on behalf of a candidate at an election held within this state at which he is a candidate, or by or on behalf of a committee selected under the provisions of section one of this act, or by or on behalf of the body or superior authority to which such committee is subject, if any, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, except for the expenses of holding and conducting public meetings for the discussion of public questions, and of printing and circulating specimen ballots, handbills, cards, and other papers previous to such election, and of advertising, and of postage, expressage, telegraphing and telephoning, and of supervising the registration of voters, and watching the polling or counting of votes cast at such election, and of salaries of persons employed in transacting business at office or headquarters and necessary expenses of maintaining same, and for rent of rooms necessary for the transaction of the business of the candidate or committee, or superior authority to which such committee is subject, if any, and for necessary incidental expenses, which shall not exceed the sum of one hundred dollars, if expended by a candidate, or one thousand dollars, if expended by a committee; and no sum shall be paid and no expense shall be incurred, directly or indirectly, by or on behalf of a candidate, whether before, during, or after an election, on account of or in respect of the conduct and management of

an election at which he is a candidate, in excess of the maximum amount following, that is to say: if the term of the office for which the person is a candidate be for one year or less, five per centum of the amount of one year's salary of the office; if the term be for more than one year, and not more than two years, ten per centum of the amount of one year's salary of the office; if the term be for more than two years, and not more than three years, fifteen per centum of the amount of one year's salary of the office; if the term be for more than three years, and not more than four years, twenty per centum of the amount of one year's salary of the office; if the term be for more than four years, ten per centum of the amount of one year's salary of the office; if the office be one for which, in lieu of salary, there is allowed per diem, for a statutory period, or for the number of days actually engaged in the performance of public duties, twenty-five per centum of the amount to accrue for the statutory period; if the office be one for which, in lieu of salary, a yearly sum is allowed the officer for all the expenses of his office, the expenditures of the candidate for such office shall not exceed the amount of ten per centum of the allowance for such office for one year; if the office be one for which no salary or compensation is allowed except fees, or a salary not exceeding nine hundred dollars per annum and fees, the expenditures of the candidate for such office shall not exceed the amount of one hundred and fifty dollars; if the office be one for which no salary or compensation is allowed, or for which a per diem is allowed for the days actually employed in the performance of a public duty, the expenditures of the candidate for such office shall not exceed one hundred dollars; if the candidate is also at the same time a candidate for an unexpired term, he shall not pay or expend any sum on account of such unexpired term, but the maximum amount to be expended by such candidate shall be as hereinabove provided.

§ 6. Every claim payable by the committee selected under the provisions of section one of this act on account of or in respect of any expense incurred in the conduct and management of an election held within this state, or on behalf of the candidates of the political party, organized assemblage, or body which such committee represents, must be presented to the committee within ten days after the return day of the election, and if not so presented, the same shall not be paid, and no action shall be commenced or maintained thereon, and all expenses incurred as aforesaid shall be paid within fifteen days after the completion of such official canvass, and not otherwise. Every claim in respect of any expenses incurred by or on behalf of a candidate at an election held within this state on account of or in respect of the conduct or management of such election shall be presented to such candidate within ten days after the day of election, and if not so presented, the same shall not be paid, and no action shall be instituted or maintained thereon; and all such expenses incurred as aforesaid must be paid within twelve days after the day of election, and not otherwise. Any person who makes a payment in contravention of this section, except where such payment is allowed, as provided by this act, is guilty of a misdemeanor.

§ 7. The superior court of the county wherein such statement is filed or is required to be filed, may, on the application of either the committee or candidate, or a creditor of either, allow any claim, not in excess of the maximum

amount allowed by this act, to be presented and paid after the time limited by this act; and a statement of any sum so paid, with a certificate of its allowance, shall forthwith, after payment, be filed by the committee or candidate in the same office as the original statement of the committee or candidate. If the candidate or committee, upon such application, shall show to the satisfaction of said court that any error or false recital in such statement or affidavit, or that the failure to make such statement or affidavit, or to present, within the designated time, a claim otherwise just and proper, has been occasioned by the absence or illness of such candidate, or by the absence, illness or death of one or more members of such committee, or by the misconduct of any person other than such applicant, or by inadvertence or excusable neglect, or of any reasonable cause of a like manner, and not by reason of any want of good faith on the part of the applicant, the court may, after such notice of the application as the court shall require, and on the production of such evidence of the facts stated in the application as shall be satisfactory to such court, by order, allow such statement and affidavit to be filed, or such error or false recital therein to be corrected, or such claims to be paid, as to the court seems just; and such order shall relieve the applicant from any liability or consequences under this act in respect of the matters excused by the order. If the application is made by a creditor, the court may, under like conditions and upon a like showing, order the claim to be paid, and the creditor shall also be entitled to his costs. The claims of one or more creditors may be united in such application, but the amount and specific nature of each claim must be fully stated.

§ 8. No payment of money shall be made and no expense shall be incurred by any person in aid of, or for or on behalf of, any candidate, or on account of or in respect of the conduct or management of an election held within this state, except by a candidate or the committee selected under the provisions of section one of this act, or the committee, body, or superior authority to which such committee is subject; and all expenses incurred by the committee, body, or superior authority to which the said committee is subject shall be paid only from the fund in the custody of the said committee so selected, as required by this act. Any contract for the payment of money or any expenses incurred contrary to the provisions of this section shall be absolutely void.

§ 9. No payment of any money shall be made by a committee or candidate for the rent of any premises to be used as a committee-room or headquarters, or for holding a meeting, or for the purpose of promoting the election of a candidate, or on account of, or in respect to the conduct or management of, an election, where intoxicating liquors are sold for consumption on the premises, or where intoxicating liquor is supplied to members of any club, society, or association; provided, that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of offices, or for holding public meetings, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

§ 10. Every bill, placard, poster, pamphlet, or other printed matter having reference to an election, or to any candidate, shall bear upon the face thereof

the name and address of the printer and publisher thereof, and no payment therefor shall be made or allowed unless such address is so printed.

§ 11. Whenever any candidate for a public office pays, lends, or contributes, or offers or agrees to pay, lend, or contribute, any money or other valuable consideration to or for any person, either for:

1. The doing or procuring to be done of any act forbidden to be done by the laws of this state relating to public elections; or

2. The commission of any crime or offense against the elective franchise, or the encouragement or assistance of a person in the commission of a crime or offense against the elective franchise, or aiding or assisting any person charged with the commission of a crime against the elective franchise to evade arrest or to escape conviction and punishment for such crime or offense; or

3. Providing wholly or in part the expense of boarding, lodging, or maintaining a person at any place or domicile in any election precinct or ward or district with the purpose of securing the vote of such person for himself or any other person at an election held within the state; or

4. The hiring or employment of a person to take or maintain a place in, or to otherwise obstruct or hinder, or to prevent the forming of, the line of voters awaiting their opportunity or time to enter the polling-place or election-booth of an election precinct; or

5. For services rendered in securing his nomination for the office for which he is a candidate, or for placing his name upon any list of nominees, filed with a public officer authorized to receive certificates of nomination, except the cost or expense authorized by the Political Code to be contributed by a candidate for nomination to defray the legal and authorized expenses of a primary election; and except, also, the cost or expense of circulating a nominating petition for signatures of voters, or in consideration of any member of a convention, organized assemblage of delegates, or other body representing or claiming to represent a political party or principle, having voted to secure for him his selection or indorsement as the nominee of such convention, organized assemblage, or body, for the office for which he is a candidate, or in consideration of any person aiding him in securing his election or indorsement as aforesaid; or

6. In consideration of any person withdrawing as a candidate for public office or presidential elector at any election held within this state; or

7. For any purpose in contravention of the provisions of this act; or

8. For any purpose whatever in excess of the maximum amount which such candidate may lawfully expend under the provisions of this act; or

9. Makes any payment after the time limited by this act, unless the same is authorized as provided in this act; or unless it be in satisfaction of a judgment obtained against him, whether before, during, or after an election, in respect of or on account of such election, or who refuses or neglects to file the statement prescribed by section three of this act, or who makes or files a false statement thereof, or is guilty of any crime against the elective franchise, or of any offense which is punishable by fine or imprisonment, or both, under the provisions of this act—such candidate shall, in addition to the

punishment prescribed by the laws of this state or by this act, forfeit any office to which he may have been elected at the election in reference to which such crime or offense was committed; and if the candidate so offending is the incumbent of an office of profit or trust under the laws of this state, he shall thereby forfeit his office. Any candidate who procures, aids, assists, counsels or advises the payment of any money or other valuable thing by or on behalf of a committee selected under the provisions of section one of this act, and such payment is made for any purpose which, if the money were expended by the candidate, would work a forfeiture of the office to which he has been elected, such payment shall be deemed to have been made by such candidate, and he shall forfeit any office to which he may have been elected at the election in reference to which such payment was made by or on behalf of such committee.

§ 12. Any elector of the state, or of any county, city and county, city or of any political subdivision of either, may contest the right of any person declared elected to an office to be exercised therein for any of the causes or offenses named in this act, or to annul and set aside the election of any person declared elected to an office to be exercised therein who has forfeited his office for any offense committed in contravention of this act. In such a proceeding the provisions of title two of part three of the Code of Civil Procedure of the state of California, relating to the proceedings of contesting certain elections, so far as they are not inconsistent with the provisions of this act, are applicable to proceedings authorized by this section. If the contest or proceedings be as to the right of any person declared elected to the office of senator or member of the assembly, the provisions of sections two hundred and seventy-three to two hundred and eighty-three, both inclusive, of the Political Code of this state shall govern and control the conduct and disposition of such contest or proceeding. If the contest be as to the right of any person declared elected to the office of governor or lieutenant-governor, such proceedings shall be had as are provided by sections two hundred and eighty-eight to two hundred and ninety-five, both inclusive, of the Political Code of this state, and shall govern and control the conduct and disposition of such proceeding. Any offense mentioned in this act which, if committed by the incumbent of an office, other than member of the senate or assembly, or governor or lieutenant-governor, or any other office named in section eighteen of article four of the constitution of this state, is cause of removal of such officer from his office, and is hereby declared to be a misdemeanor in office, within the meaning of the constitution of this state; and for any such misdemeanor in office, the governor, lieutenant-governor, or other officer mentioned in said section eighteen of article four of the constitution, is liable to impeachment. For any such misdemeanor in office committed by a member of the senate or assembly of this state, with the concurrence of two thirds of the members elected, such member may be expelled. If the proceeding is against the incumbent of an office of profit or trust under the laws of this state, other than member of the senate or assembly, or governor or lieutenant-governor, or other officer liable to impeachment, to remove him from or deprive him of his office for any offense in contravention of the provisions of this act, the provisions of sections seven hundred and fifty-eight to seven hundred and seventy-two, both inclu-

sive, of the Penal Code of the state of California shall be applicable to such proceedings.

§ 13. Where, upon the trial of any action or proceeding under the provisions of this act for the contesting of the right of any person declared elected to an office, or to annul and set aside such election, or to remove a person from his office, it appears from the evidence that the offense complained of was not committed by the candidate, or with his knowledge or consent, or was committed without his sanction or connivance, and that all reasonable means for preventing the commission of such offenses at such election were taken by and on behalf of the candidate, or that the offenses complained of were trivial, unimportant, and limited in character, and that in all other respects his participation in the election was free from such offenses or illegal acts, or that any act or omission of the candidate arose from inadvertence or from accidental miscalculation, or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and under the circumstances it seems to the court to be just that the said candidate should not forfeit his office, or be deprived of any office of which he is the incumbent, then the election of such candidate shall not, by reason of such offense or omission complained of, be void, nor shall the candidate be removed from or deprived of his office.

§ 14. An action to contest the right of any person declared elected to an office, or to annul and set aside such election, or to remove from or deprive any person of an office of which he is the incumbent, for any offense mentioned in this act, must, unless a different time be stated, be commenced within forty days after the return day of the election at which such offense was committed; or unless the ground of the action or proceeding is the illegal payment of money or other valuable thing subsequent to the filing of the statement prescribed by section three of this act, in which case the action or proceeding may be commenced at any time after such illegal payment. A contest of the office of governor or lieutenant-governor, or member of the senate or assembly, must be commenced within twenty days after the certificate of election is issued or the declaration of the result of the election.

§ 15. An application for filing a statement, payment of a claim, or correction of an error or false recital in a statement filed, or an action or proceeding to annul and set aside the election of any person declared elected to an office, or to remove or deprive any person of his office for an offense mentioned in this act, must be made to or commenced in the superior court of the county in which the certificate of his nomination as a candidate for the office to which he is declared elected or is the incumbent is filed, or would be filed, under any law enacted subsequent to the first day of January, eighteen hundred and ninety-one, had such law been in force at the time he was a candidate.

§ 16. A candidate elected to an office, and whose election thereto has been annulled and set aside for any offense mentioned in this act, shall not, during the period fixed by law as the term of such office, be appointed to fill any vacancy which may occur in such office. A candidate or other person who is removed from or deprived of his office for any offense mentioned in this act

shall not, during the period remaining as the unexpired term of such office, or during the period fixed by law as the next ensuing term of such office, be appointed to fill any vacancy which may occur in such office. Any appointment to an office made in violation of or contrary to the provisions of this section shall be void.

§ 17. Every offense mentioned in this act which is punishable by imprisonment in the state prison is hereby declared to be an infamous crime, and when any person is convicted of an offense herein declared to be an infamous crime, he shall, in addition to the punishment prescribed by the laws of this state for such offense, be excluded from the right of suffrage after such conviction; and it shall be the duty of the county clerk of the county in which any such conviction shall be had to transmit a certified copy of the record of conviction to the clerk of each county of the state within ten days thereafter, which said certified copy shall be duly filed by the said county clerks in their respective offices, and a record of such must be made, and such record shall be a public record, and open to the inspection of any citizen.

§ 18. If the district attorney of the county shall be notified by any officer or other person of any violation of any of the provisions of this act, it shall be his duty forthwith to diligently inquire into the facts of such violation, and if there is reasonable ground for instituting a prosecution, it shall be the duty of such district attorney to file a complaint or accusation, in writing, before a court of competent jurisdiction, charging the accused person of such offense, and shall verify such complaint by affidavit; but it shall be sufficient to state in such affidavit that he believes the facts stated in such complaint to be true. If any district attorney shall fail or refuse to faithfully perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall forfeit his office. It shall be the duty of the district attorney, under penalty of forfeiture of his office, to prosecute any and all persons guilty of any violation of the provisions of this act, the penalty of which is fine or imprisonment, or both, or removal from office. Any citizen may employ an attorney to assist the district attorney to perform his duties under this act, and such attorney shall be recognized by the district attorney and the court as associate counsel in the proceeding; and no prosecution, action, or proceeding shall be dismissed without notice to, or against the objection of, such associate counsel until the reasons of the district attorney for such dismissal, together with the objections thereto of said associate counsel, shall have been filed in writing, argued by counsel, and fully considered by the court, with such limitation as to the time of filing such reasons and objections as the court may impose.

§ 19. It shall be unlawful for any person, directly or indirectly, by himself or through any other person,—

1. To pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration, to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for any particular person or persons, or to induce such voter to come to the polls or remain away from the polls at such election, or on account of such voter having voted or refrained from voting, or having voted or refrained

from voting for any particular person, or having come to the polls or remained away from the polls, at such election.

2. To give, offer, or promise any office, place, or employment, or to promise to procure, or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election for any particular person or persons.

3. To make any gift, loan, promise, offer, procurement, or agreement, as aforesaid, to, for, or with any person, in order to induce such person to procure, or endeavor to procure, the election of any person, or the vote of any voter at any election.

4. To procure, or engage, promise, or endeavor to procure, in consequence of any such gift, loan, offer, promise, procurement, or agreement, the election of any person, or the vote of any voter at such election.

5. To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same, or any part thereof, shall be used in bribery at any election; or to knowingly pay, or cause to be paid, any money, or other valuable thing, to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any election.

6. To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same, or any part thereof, shall be used for boarding, lodging, or maintaining a person at any place or domicile in any election precinct, or ward, or district, with intent to secure the vote of such person, or to induce such person to vote for any particular person or persons at any election.

7. To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same, or any part thereof, shall be used to aid or assist any person to evade arrest who is charged with the commission of a crime against the elective franchise, for which, if the person were convicted, the punishment would be imprisonment in the state prison.

8. To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, in consideration of being selected or indorsed as the candidate of any convention, organized assemblage of delegates, or other body, representing, or claiming to represent, a political party or principle, or any club, society, or association, for a public office, or in consideration of the selection or indorsement of any other person as a candidate for public office, or in consideration of any member of a convention, club, society, or association having voted to select or indorse any person as a candidate for a public office, except that a candidate for nomination to a public office may contribute such proportion of the cost and expense of holding a primary election as is authorized by the Political Code of this state, and no more.

9. To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, in consideration of a person withdrawing as a candidate for a public office.

Every person who commits any of the offenses mentioned in this section is

punishable, upon conviction thereof, by imprisonment in the state prison for not less than one year nor more than seven years. (See **Kerr's Cyc. Penal Code**, § 54b.)

§ 20. It shall be unlawful for any person, directly or indirectly, by himself, or through any other person,—

1. To receive, agree, or contract for, before or during an election, any money, gift, loan, or other valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting, for any particular person or persons at any election.

2. To receive any money or other valuable thing, during or after an election, on account of himself or any other person having voted or refrained from voting, for any particular person or persons at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or on account of having induced any other person to vote or refrain from voting, or to vote or refrain from voting for any particular person or persons, or to come to or remain away from the polls at such election.

3. To receive any money or other valuable thing, before, during, or after election, on account of himself or any other person having voted to secure the election or indorsement of any other person as the nominee or candidate of any convention, organized assemblage of delegates, or other body representing, or claiming to represent, a political party or principle, or any club, society, or association, or on account of himself or any other person having aided in securing the selection or indorsement of any other person as a nominee or candidate as aforesaid.

Every person who commits any of the offenses mentioned in this section is punishable, upon conviction, by imprisonment in the state prison for not less than one nor more than seven years. (See **Kerr's Cyc. Penal Code**, § 54a.)

§ 21. Every person who wilfully causes, procures, or allows himself to be registered in the precinct register or great register of any county or city and county, knowing himself not to be entitled to such registration, is punishable by imprisonment in the state prison for not less than one nor more than three years. (See **Kerr's Cyc. Penal Code**, § 42.)

§ 22. Every person who wilfully causes, procures, or allows any other person to be registered in the precinct register or great register of any county, or city and county, knowing such person not to be entitled to such registration, is punishable by imprisonment in the state prison for not less than one year nor more than three years. (See **Kerr's Cyc. Penal Code**, § 42a.)

§ 23. Every person not entitled to vote who fraudulently votes, and every person who votes more than once, at any one election; or knowingly hands in two or more tickets folded together, or changes any ballot after the same has been deposited in the ballot-box, or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots lawfully

polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll list, or ballots, or ballot-box for the purpose of breaking up or invalidating such election; or wilfully retains, mutilates, or destroys any election returns; or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly had and lawfully conducted,—is punishable by imprisonment in the state prison for not less than two nor more than seven years.

§ 24. Every person not entitled to vote who fraudulently attempts to vote, or who, being entitled to vote, attempts to vote more than once, at any election, or who personates or attempts to personate a person legally entitled to vote, is punishable by imprisonment in the state prison for not less than one nor more than two years. (See **Kerr's Cyc. Penal Code**, § 46.)

§ 25. Every person who gives or offers a bribe to any officer or member of any legislative caucus, political convention, committee, primary election, or political gathering of any kind, held for the purpose of nominating candidates for offices of honor, trust, or profit in this state, with intent to influence the person to whom such bribe is given or offered to be more favorable to one candidate than to another, and every person, member of either of the bodies in this section mentioned, who receives or offers to receive any such bribe, is punishable by imprisonment in the state prison for not less than one nor more than seven years.

§ 26. Every officer or clerk of election who aids in changing or destroying any poll list or official ballot, or in placing any ballots in the ballot-box, or in taking any therefrom, or adds, or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another to carry away or destroy, any poll list, ballots, ballot-box, or ballots lawfully polled, is punishable by imprisonment in the state prison for not less than two nor more than seven years. (See **Kerr's Cyc. Penal Code**, § 57a.)

§ 27. Every person who forges or counterfeits returns of an election purporting to have been held at a precinct, town, or ward where no election was in fact held, or wilfully substitutes forged or counterfeit returns of election in the place of true returns for a precinct, town, or ward where an election was actually held, is punishable by imprisonment in the state prison for a term not less than two nor more than seven years. Every person who wilfully adds to or subtracts from the votes actually cast at an election, in any official or unofficial returns, or who alters such returns, is punishable by imprisonment in the state prison for not less than one nor more than five years. (See **Kerr's Cyc. Penal Code**, §§ 50, 51.)

§ 28. Every person who aids, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote, or who aids or abets in the commission of any of the offenses mentioned in the preceding sections, is punishable by imprisonment in the state prison not exceeding two years. (See **Kerr's Cyc. Penal Code**, § 47.)

§ 29. Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, who wilfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment for such acts or omissions is prescribed by the code of this state, punishable by fine not exceeding one thousand dollars, or by imprisonment in the state prison not exceeding five years, or by both.

§ 30. Every person who, being a member of the committee selected as prescribed in section one of this act, or a candidate for a public office at an election, makes and files any false statement of moneys received and expended on account of or in respect of the conduct and management of the election in reference to which such statement is filed, is guilty of perjury, and is punishable by imprisonment in the state prison for not less than one year nor more than seven years.

§ 31. Every person who signs or presents for filing a certificate as prescribed by section one of this act, which contains the name of a fictitious person, or the name of any person other than those actually selected to perform the duties required of the committee to be selected under the provisions of section one of this act, or who practises any fraud, device, or artifice to conceal the true names of the persons actually charged with the duties belonging to the said committee, is punishable, upon conviction, by imprisonment in the state prison for not less than one year nor more than seven years.

§ 32. A person offending against any provisions of sections nineteen, twenty, twenty-one, twenty-two, twenty-five, twenty-six, twenty-seven, twenty-eight, thirty and thirty-one of this act is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or lawful investigation or judicial proceeding, in the same manner as any other person. If such person demands that he be excused from testifying on the ground that his testimony may incriminate himself, he shall not be excused, but in that case the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony, and he shall not thereafter be liable to indictment or presentment by information, nor to prosecution or punishment for the offense with reference to which his testimony was given. No person shall be exempt from indictment, presentment by information, prosecution or punishment for the offense with reference to which he may have testified as aforesaid when such person so testifying does so voluntarily or when such person so testifying fails to ask to be excused from testifying on the ground that his testimony may incriminate himself, but in all such cases the testimony so given may be used in any prosecution or proceeding, civil or criminal, against the person so testifying. Any person shall

be deemed to have asked to be excused from testifying under this section unless, before any testimony is given by such a witness, the judge, foreman or other person presiding at such trial, hearing, proceeding or investigation shall distinctly read this section to such witness, and the form of the objection by the witness shall be immaterial if he in substance makes objection that his testimony may criminate himself, and he shall not be obliged to object to each question, but one objection shall be sufficient to protect such witness from prosecution for any offense concerning which he may testify upon such trial, hearing, proceeding or investigation. [Amendment, Stats. 1905, 93.]

§ 33. It shall be unlawful for any candidate for public office, before or during an election, to make any bet or wager with a voter, or take a share or interest in or in any manner become a party to such bet or wager, or provide, or agree to provide, any money to be used by another in making such bet or wager, upon any event or contingency whatever. Nor shall it be lawful for any person, directly or indirectly, to make a bet or wager with a voter, depending upon the result of any election, with the intent thereby to procure the challenge of such voter, or to prevent him from voting at such election. Every person who commits any of the offenses mentioned in this section is guilty of a misdemeanor.

§ 34. Every candidate for a public office who refuses or neglects to file a statement, as prescribed in section three of this act, is guilty of a misdemeanor.

§ 35. Every member of a committee selected under the provisions of section one of this act who refuses or neglects to file a statement, as prescribed by section two of this act, is guilty of a misdemeanor.

§ 36. Every person who advances or pays, or causes to be paid, any money or other valuable thing, in contravention of sections eight or nine of this act, unless a different penalty is provided for such illegal payment, is guilty of a misdemeanor.

§ 37. Every candidate who makes any payment in aid of his election, or in the conduct and management of an election, in excess of the sum authorized or permitted to be expended by this act, or contrary to or in violation of sections five or six of this act, is guilty of a misdemeanor, unless a different penalty is provided for such illegal payment; each payment so made contrary to or in violation of said sections five or six of this act shall constitute a separate and distinct offense.

§ 38. Every member of a committee selected under the provisions of section one of this act who makes any payment contrary to or in violation of the provisions of sections five or six of this act, unless a different penalty is provided for such illegal payment, is guilty of a misdemeanor.

§ 39. Every person who, either before or during an election, directly or indirectly, gives or provides, or pays, wholly or in part, the expense of giving or providing any meat, drink, refreshment, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person, or any other person, to give or refrain from giving his vote at an election, or to come to the polls or remain away from the polls, or on account of such person or any other person having voted or refrained from voting, or having come

to the polls or remained away from the polls, or being about to vote or refrain from voting, at such election, is guilty of a misdemeanor.

§ 40. Every person who sets up, or causes to be set up, or otherwise exhibits, in any place set apart for the registration of voters, for the receiving of votes at an election, or for the counting of votes cast at an election, any box or other receptacle for the deposit of money, or who solicits the giving or depositing of any money, for the purpose of providing any drink, refreshment, or entertainment to or for any person employed in or about the registration of voters, or the polling of votes, or the counting of votes cast at an election, or who gives or provides any moneys as aforesaid, is guilty of a misdemeanor.

§ 41. It shall be unlawful for any person, directly or indirectly, by himself, or any other person in his behalf, to make use of, or threaten to make use of, any force, violence, or restraint, or to inflict or threaten the infliction, by himself, or through any other person, of any injury, damage, harm, or loss, or in any manner to practise intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person or persons at any election, or on account of such person or persons at any election, or on account of such person having voted or refrained from voting at any election. And it shall be unlawful for any person, by abduction, duress, or any forcible or fraudulent device or contrivance whatever, to impede, prevent, or otherwise interfere with the free exercise of the elective franchise by any voter; or to compel, induce, or prevail upon any voter either to give or refrain from giving his vote at any election, or to give or refrain from giving his vote for any particular person or persons at any election. It shall not be lawful for any employer, in paying his employees the salary or wages due them, to inclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate, or any political mottos, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees. Nor shall it be lawful for any employer, within ninety days of an election, to put up or otherwise exhibit in his factory, workshop, or other establishment or place where his workmen or employees may be working, any hand-bill, or placard containing any threat, notice, or information, that in case any particular ticket of a political party, or organization, or candidate shall be elected, work in his place or establishment will cease, in whole or in part, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees. This section shall apply to corporations as well as individuals, and any person or corporation violating the provisions of this section is guilty of a misdemeanor, and any corporation violating this section shall forfeit its charter. (See **Kerr's Cyc. Penal Code**, § 59.)

§ 42. Every inspector, judge, or clerk of an election who, previous to putting the ballot of an elector in the ballot-box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector which

has been handed in to be opened or examined previous to putting the same into the ballot-box, or who makes or places any mark or device on any folded ballot with the view to ascertain the name of any person for whom the elector has voted, or who, without the consent of the elector, discloses the name of any person which such inspector, judge, or clerk has fraudulently or illegally discovered to have been voted for by such elector, is punishable by fine not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days or more than six months, or by both such fine and imprisonment. (See **Kerr's Cyc. Penal Code**, § 49.)

§ 42a. All the provisions of sections nineteen to thirty-three inclusive and sections thirty-nine to forty-two inclusive shall apply with like force and effect to elections known and designated as primary elections, held and conducted under official supervision, pursuant to law and to registration therefor, as to other elections whether the word primary be used in connection with the word election or elections used in said sections of said act or not. [New section added, Stats. 1905, 37.]

§ 43. Other crimes against the elective franchise are defined, and the punishment thereof prescribed, by the Penal Code relating to the subject, and by special statutes.

§ 44. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 45. This act shall take effect and be in force from and after its passage.

Stats. 1893, § 12.—Ex parte Cohen, 104 Cal. 524, 528, 38 Pac. Rep. 364, 26 L. R. A. 423; People vs. Lee, 107 Cal. 477, 479, 40 Pac. Rep. 754. § 32—People vs. Sternberg, 111 Cal. 3, 4-7, 43 Pac. Rep. 198; People vs. Cavanaugh, 112 Cal. 674, 675, 44 Pac. Rep. 1057; People vs. Buckley, 116 Cal. 146, 155, 47 Pac. Rep. 1009; People vs. Eagan, 116 Cal. 287, 289, 48 Pac. Rep. 120; Bradley vs. Clark, 133 Cal. 196, 198, 65 Pac. Rep. 395; Land vs. Clark, 132 Cal. 673, 674, 64 Pac. Rep. 1071; Maddux vs. Walthall, 141 Cal. 412, 416, 74 Pac. Rep. 1026.

FURTHER LEGISLATION.—As above indicated, various sections of the foregoing statute are supposed to be carried into the Penal Code by Stats. 1905, 639-643. See **KERR'S CYC. PEN. CODE**, §§ 42-55a, 57a, 59; also Stats. 1897, 53, ch. LIX.

"Protection of Certain Candidates" has been carried into the Penal Code by Stats. 1905, 639-643. See **KERR'S CYC. PEN. CODE**, § 55a.

PRIMARY ELECTIONS.—Stats. 1895, 207, ch. CLXXXI, and 1897, 115, ch. CVI, were cited in the following decisions, respectively, and held unconstitutional: **1895, 207**—Gett vs. Supervisors, 111 Cal. 366, 367, 43 Pac. Rep. 1122; Marsh vs. Hanly, 111 Cal. 368, 370, 43 Pac. Rep. 975; Spier vs. Baker, 120 Cal. 370, 52 Pac. Rep. 659, 41 L. R. A. 196. **1897, 115**—McKinnon vs. Leonard et al., 118 Cal. 302, 50 Pac. Rep. 536; Spier vs. Baker, 120 Cal. 370, 52 Pac. Rep. 659, 41 L. R. A. 196; Britton vs. Board of Elec. Comm'rs, 129 Cal. 337, 340, 61 Pac. Rep. 1115, 51 L. R. A. 115. See **KERR'S CYC. POL. CODE**, §§ 1365-1372.

EL MONTE—TOWN OF.

See **Municipal Corporations—Lexington.**

EMIGRATION.

To promote emigration from the state of California.

(Stats. 1880, 15, ch. XX.)

§ 1. It shall be unlawful for the owners, officers, agents, or employees of any steamship company, sailing vessel, or railroad company, or firm or corporation, that may be engaged in this state in the transportation of passengers to and from any foreign port, to withhold or refuse any person or persons the right to purchase a passage ticket or tickets to any foreign country for the reason that he or they have not presented a certificate, card, or other docu-

ment whatsoever showing that such person has paid in full, or in part, any or all dues, debts, or demands, or otherwise, or any sum whatsoever, to any society, company, corporation, association, or individual, or firm; and any person or corporation who shall violate the provisions of this section, or in pursuance of any agreement, oral or written, refuse to sell a passage ticket to any person to any foreign country, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred nor more than five hundred dollars; provided, that nothing in this section shall be construed in any manner to apply to any passport or other document required by law to be presented, having the signature or seal of any foreign consul resident within this state.

§ 2. This act shall take effect on and after its passage.

EMPLOYERS AND EMPLOYEES.

To limit the meaning of the word "conspiracy," and also the use of "restraining orders," and "injunctions," as applied to disputes between employers and employees in the state of California.

(Stats. 1903, 289, ch. CCXXXV.)

§ 1. No agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees in the state of California shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce, nor shall any restraining order or injunction be issued with relation thereto. Nothing in this act shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy, for which punishment is now provided by any act of the legislature, but such act of the legislature shall, as to the agreements, combinations, and contracts hereinbefore referred to, be construed as if this act were therein contained; provided, that nothing in this act shall be construed to authorize force or violence, or threats thereof.

§ 2. This act shall take effect immediately.

See tits. **Factories and Workshops; Public Buildings; Public Works.**

EMPLOYMENT AGENTS.

Defining the duties and liabilities of employment agents, making the violation thereof a misdemeanor and fixing penalties therefor.

(Stats. 1903, 14, ch. XI; amended Stats. 1905, 143, ch. CXLV, and § 4 repealed.)

§ 1. Any person, firm, corporation, or association pursuing for profit the business of furnishing, directly or indirectly, to persons seeking employment, information enabling, or tending to enable, such persons to secure such employment, or registering for any fee, charge, or commission the names of any person seeking employment as aforesaid, shall be deemed to be an employment agent within the meaning of this act.

§ 2. It shall be unlawful for an employment agent in the state of Cali-

fornia to receive directly or indirectly, any money or other valuable consideration from any person seeking employment, or for any information or assistance furnished or to be furnished by said agent to such person, enabling or tending to enable said person to secure such employment prior to the time at which said information or assistance is actually thus furnished.

§ 3. It shall be unlawful for any employment agent in the state of California, to induce, influence, persuade, or engage any person to change from one place to another in this state, or to change from any place in any state, territory, or country, to any place in this state to work in any branch of labor, through or by means of any representations whatsoever, whether spoken, written, or advertised in printed form, unless such employment agent shall have assured himself beyond a reasonable doubt that such representations are true and cover all the material facts affecting the employment in question. Whenever any such representation, whereby any person is induced, influenced, persuaded, or engaged to change from one place to another in this state, or from any place in any state, territory, or country, to any place in this state to work in any branch of labor, shall prove to be in any material degree at variance with, or short of the truth, the employment agent responsible for such representations shall immediately return to any person who shall have been influenced, by such representations, any and all fees paid by such person to said employment agent on the strength of such representations, together with an amount of money sufficient to cover all necessary expenses incurred by such person influenced by such representations in going to and returning from, any place he shall have been influenced by such representations to visit in the hope of employment. [Amendment, Stats. 1905, 143.]

§ 4. (Repealed.)

§ 5. The tax collector or license collector of each respective city, county or city and county of the state of California shall furnish quarterly, to the commissioner of the bureau of labor statistics of the state of California the name and address of each employment agent doing business in said city, county or city and county; provided, that where the license is not a county license, but is collected by a municipal government, then the municipal collector of said tax shall furnish the names and addresses.

§ 6. Each employment agent in the state of California shall keep a written record, which shall show the name of each person making application to said agent for registration, information or assistance, such as is described in section two hereof; the name of each such person to whom such registration or information is furnished; and the amount received in each such case therefor; the name of each person, who, having received and paid for, as herein contemplated, registration, information or assistance such as is described in section two hereof, fails to secure the employment regarding which such registration, information or assistance is furnished, together with the reason why said employment was not by said person secured, and the name of each person to whom return is made, in accordance with the provisions of section three hereof, of any money or other consideration such as is in said section named, together with the amount of said money, or the value of said consideration, thus returned.

§ 7. Each employment agent in the state of California shall permit the commissioner of the bureau of labor statistics of said state, by himself, or by his deputies or agents, to have at all times access to, and to inspect, the record in section six hereof named, and upon demand in writing therefor by said commissioner, shall furnish to such commissioner a true copy of said record, or of such portion thereof as said demand in writing shall require a copy of to be thus furnished.

§ 8. Any employment agent or other person violating, or omitting to comply with, any of the provisions of this act, shall be deemed guilty of misdemeanor, and upon conviction shall be punished by fine not exceeding five hundred (500) dollars, or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment in the discretion of the court.

§ 9. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 10. This act shall take effect from and after the date of its passage.

Sections 2 and 4 considered in *Ex parte Dickey*, 144 Cal. 234, 235, 77 Pac. Rep. 924.

ESCAPES.

From Prisons, Reform Schools, Etc.

See **KERR'S CYC. PEN. CODE**, §§ 109, 110.

ESTATES OF DECEASED PERSONS.

To amend an act entitled "An act to authorize the husband or wife, or next of kin, of a deceased person to collect and receive of any savings bank any deposit in such bank, when the same does not exceed the sum of three hundred dollars."

(Stats. 1873-4, 132, ch. CXII; amended Stats. 1895, 32, ch. XXVII.)

§ 1. The surviving husband or wife of any deceased person, or if no husband or wife be living, then the next of kin of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; provided, said deposit shall not exceed the sum of five hundred dollars. [Amendment, Stats. 1895, 32.]

§ 2. Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife, as the case may be, or stating that said decedent left no husband or wife, and that affiant is next of kin of said decedent, and entitled to distribution, and that the whole amount that decedent left on deposit in any and all banks of deposit in this state does not exceed the sum of five hundred dollars, may pay to said affiant any deposit of said decedent, if the same does not exceed the sum of five hundred dollars, and the receipt of such affiant shall be a sufficient acquittance therefor. [Amendment, Stats. 1895, 32.]

§ 3. Any person who shall make a false affidavit in regard to the matters specified in this act, shall be deemed to be guilty of perjury.

§ 4. This act shall take effect from and after its passage.

The statute of 1895 purports to "amend," but apparently supersedes the former statute, only increasing the sum of money from \$300 to \$500.

ESTRAY—ANIMALS.

The Stats. 1873-4, 50, ch. LV; 1877-8, 176, ch. CXXXVI, and other enactments prior to 1901 are considered as superseded by the Stats. 1901, 603, amended 1905, 395. As former statutes on the subject affected particular counties and varied but little in their material effects, the following decisions are noted under the statutes here cited: **Stats. 1873-4**—Gonzales vs. Wasson, 51 Cal. 295, 297; People vs. Martin, 52 Cal. 201, 202; Young vs. Wright, 52 Cal. 407, 408; Sutherland vs. Sweem, 53 Cal. 48; De Le Guerra

vs. Newhall, 53 Cal. 141, 146; Triscony vs. Brandenstein, 66 Cal. 514, 516, 6 Pac. Rep. 384; Zumwalt vs. Dickey, 92 Cal. 156, 157, 28 Pac. Rep. 212; Hanley vs. Sixteen Horses, 97 Cal. 182, 183, 32 Pac. Rep. 10. **Stats. 1877-8**—Orcutt vs. Pacific Coast R. Co., 85 Cal. 291, 298, 24 Pac. Rep. 661; Hanley vs. Sixteen Horses, 97 Cal. 182, 183, 32 Pac. Rep. 10; Wigmore vs. Buell, 122 Cal. 144, 145, 54 Pac. Rep. 600. See tits. **Animals—Estray.**

FOR MIGRATORY STOCK, see post, tit. **Taxation.**

EXECUTION.

See tit. **Counties—New.**

EXPLOSIVES—DYNAMITE.

To protect life and property against the careless and malicious use or handling of dynamite and other explosives.

(Stats. 1887, 110, ch. XCV.)

§ 1. It is the duty of each and every person, contractor, firm, association, joint-stock company, and corporation, manufacturing, storing, selling, transferring, disposing of, or in any manner dealing in or with, or using or giving out, nitroglycerin, dynamite, vigorite, Hercules powder, giant powder, or other high explosive, by whatever name known, to keep at all times an accurate journal, or book of record, in which must be entered, from time to time, as they are made, each and every sale, delivery, transfer, gift, or other disposition made by such person, firm, association, joint-stock company, or corporation, in the course of business or otherwise, of any quantity of such explosive substance.

§ 2. Such journal or record book must show, in a legible handwriting to be entered therein at the time, a complete history of each transaction, stating the name and quantity of the explosive sold, delivered, given away, transferred, or otherwise disposed of; the name, place of residence, or business of the purchaser or transferee; the name of the individual to whom delivered, with his or her address, with a description of such individual sufficient to provide for identification.

§ 3. Such journal or record book must be kept, by the person, firm, association, joint-stock company, or corporation so selling, delivering, or otherwise disposing of such explosive substance or substances, in his or their principal office or place of business, at all times subject to the inspection and examination of the peace officers or other police authorities of the state, county, city and county, or municipality where the same is situated, on proper demand made therefor; any failure or neglect to keep such book, or to make the proper entries therein at the time of the transaction, as herein provided, or to exhibit the same to the peace officers or other police authorities on demand, shall be deemed a misdemeanor, and punished accordingly.

§ 4. In addition to such punishment, and as a cumulative penalty, such

person, firm, association, joint-stock company, or corporation so offending, shall forfeit, for each offense, the sum of two hundred and fifty dollars, to be recovered in any court of competent jurisdiction, by action at law. The party so instituting such actions shall not be entitled to dismiss the same without consent of the court before which the suit has been instituted. Nor shall any judgment recovered be settled, satisfied, or discharged, save by order of such court, after full payment into court, and all moneys so collected shall be paid to the party bringing the suit.

§ 5. Any person who, in the public street or any highway of any county, city and county, city, or town or city, or at, in, or near to any theater, hall, public or private school, or college, church, hotel, or other public building, or at, in, or near to any private habitation or in, on board of, or near any railway passenger train, or car or train, or cable road, or car of the same, or steam or other vessel, engaged in carrying passengers, or ferry-boat, or other public place where human beings ordinarily pass and repass, shall recklessly or maliciously have in his or her possession any dynamite, nitroglycerin, vigorite, Hercules powder, giant powder, or other high explosive; or who shall recklessly or maliciously by use of such means intimidate, terrify, or endanger any human being, is guilty of a felony, and on conviction shall be punished accordingly.

§ 6. Any person not regularly engaged in the manufacture, sale, transportation, or legitimate use in blasting operations, or in the arts, of such substances as are named in this act, shall be presumed (*prima facie*) to be guilty of a reckless and malicious possession thereof, within the meaning of the foregoing section, if any such substance is found upon him, or in his possession, in any of the places, or under any of the circumstances specified in the preceding section.

§ 7. No person may knowingly keep or have in his or her possession any dynamite, vigorite, nitroglycerin, giant powder, Hercules powder, or other high explosive, except in the regular course of business carried on by such person, either as a manufacturer thereof or merchant dealing in the same, or for use in legitimate blasting operations, or in the arts, or while engaged in transporting the same for others, or as the agent or employee of others engaged in the course of such business or operations. Any other possession of any such explosive substances as are named in this act is unlawful, and the person so unlawfully possessing it shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.

§ 8. Any person who maliciously deposits or explodes, or who attempts to explode, at, in, under, or near any building, vessel, or boat, railroad, tramroad, or cable road, or any train or car, or any depot, stable, car-house, theater, school-house, church, dwelling-house, or other place where human beings usually inhabit, assemble, frequent, or pass and repass, any dynamite, nitroglycerin, vigorite, giant or Hercules powder, gunpowder, or other chemical compound, or other explosive, with the intent to injure or destroy such building, vessel, boat, or other structure, or with the intent to injure, intimidate, or terrify any human being, or by means of which any human being is injured or

endangered, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than one year.

§ 9. Any person, firm, or corporation, who shall take, carry, or transport, or cause to be taken, carried, or transported, any dynamite, vigorite, nitroglycerin, Hercules or giant powder, or other high explosive, into the limits of, or through, or across any incorporated city or town of this state, or into, through, or across any harbor for shipping, in any manner, condition, or quantity, or otherwise, in violation of the laws or ordinances of such city or town, or of the laws or regulations governing such harbor, shall, in addition to the penalties provided or imposed by such laws, ordinances, or regulations, forfeit to the state of California all such explosive substances, as well as the cases inclosing the same. Such forfeiture may be sued for by any citizen of the state, for himself and the state; and the goods or property, when so forfeited and recovered by judgment of the court, shall be sold, and the proceeds divided, the citizen so suing taking one half to himself for his own benefit, and paying the other half into the state treasury. Such action may be maintained in any court of competent jurisdiction; provided, that the state shall never be liable to any cost or expense for any such suit or proceeding.

§ 10. Any of the forfeitures provided for in this act may be taken advantage of, and sued for and recovered, by any peace officer or policeman, member of the police force of any city, city and county, or town where the same arises, for his own benefit, notwithstanding any law, ordinance, or rule to the contrary.

§ 11. This act shall take effect and be in force from and after its passage.

See **KERR'S CYC. PEN. CODE**, §§ 180a, 375a, 595, and other sections.

EX-UNION SOLDIERS AND SAILORS.

License—Peddlers.

Permitting all ex-Union soldiers and sailors of the civil war, honorably discharged from the military or marine service of the United States, the right to vend, hawk and peddle goods, wares, fruits or merchandise not prohibited by law, in any county, town, village, incorporated city or municipality in the state of California, without paying a license.

(Stats. 1905, 307, ch. CCXCVII.)

§ 1. That on and after the passage of this act all ex-Union soldiers and sailors, honorably discharged from the military or marine service of the United States, shall be permitted to vend, hawk and peddle goods, wares, fruits or merchandise not prohibited by law, in any county, town, village, incorporated city or municipality within this state without a license: provided, said soldier or sailor is engaged in the vending, hawking and peddling of the goods, wares, fruits or merchandise for himself only.

§ 2. Upon the presentation of his certificate of discharge to the license collector of any county, town, village, incorporated city or municipality in this state, and showing proofs of his identity as the person named in his certificate of honorable discharge, the license collector shall issue to said ex-Union soldier or sailor a license, but such license shall be free, and said license

collector shall not collect or demand for the county, town, village, incorporated city or municipality any fee therefor; provided that nothing in this act shall authorize said soldiers or sailors to sell intoxicating liquors.

§ 3. This act shall take effect and be in force from and after its passage.

See tit. **License Tax.**

FACTORIES AND WORKSHOPS.

To provide for the proper sanitary condition of factories and workshops, and the preservation of the health of employees.

(Stats. 1889, 3, ch. V; amended 1901, 571, ch. CLXXVI, and 1903, 16, ch. XII.)

§ 1. Every factory, workshop, mercantile or other establishment, in which five or more persons are employed, shall be kept in a cleanly state and free from the effluvia arising from any drain, privy, or other nuisance, and shall be provided, within reasonable access, with a sufficient number of water-closets or privies for the use of the persons employed therein. Whenever the persons employed as aforesaid are of different sexes, a sufficient number of separate and distinct water-closets or privies shall be provided for the use of each sex, which shall be plainly so designated, and no person shall be allowed to use any water-closet or privy assigned to persons of the other sex.

§ 2. Every factory or workshop in which five or more persons are employed shall be so ventilated while work is carried on therein that the air shall not become so exhausted as to be injurious to the health of the persons employed therein, and shall also be so ventilated as to render harmless, as far as practicable, all the gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that may be injurious to health.

§ 3. No basement, cellar, underground apartment, or other place which the commissioner of the bureau of labor statistics shall condemn as unhealthy and unsuitable, shall be used as a workshop, factory, or place of business in which any person or persons shall be employed.

§ 4. In any factory, workshop, or other establishment where a work or process is carried on by which dust, filaments, or injurious gases are generated or produced, that are liable to be inhaled by persons employed therein, the person, firm, or corporation by whose authority the said work or process is carried on shall cause to be provided and used in said factory, workshop, or establishment an exhaust fan or blower, with pipes and hoods extending therefrom to each wheel or other apparatus used to grind, polish, or buff metals. The said fan or blower, and the said pipes and hoods, all to be properly fitted and adjusted, and of power and dimensions sufficient to effectually prevent the dust and filaments produced by the abovesaid metal-polishing, metal-grinding, or metal-buffing from escaping into the atmosphere of the room or rooms of said factory, workshop, or establishment where persons are employed. [Amendment, Stats. 1901, 571.]

§ 5. Every person, firm, or corporation employing females in any manufacturing, mechanical, or mercantile establishment shall provide suitable seats for the use of the females so employed, and shall provide such seats to the num-

ber of at least one third the number of females so employed; and shall permit the use of such seats by them when they are not necessarily engaged in the active duties for which they are employed. [Amendment, Stats. 1903, 16.]

§ 6. Any person or corporation violating any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment, for each offense. [Amendment, Stats. 1901, 671.]

§ 7. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act.

§ 8. This act shall take effect and be in force from and after its passage.

Section 6 of the original statute was held unconstitutional in *Schaezlein vs. Cabaniss*, 135 Cal. 466, 467, 87 Am. St. Rep. 122, 67 Pac. Rep. 755, 56 L. R. A. 733.

FALSE BAY, SAN DIEGO.

Providing for authority to use the tide-waters of the entrance to "False Bay" in San Diego County, and certain lands adjacent thereto, to propel machinery; and to permit the erection and maintenance of structures for the installation, maintenance and operation of such machinery; and fixing the charge therefor.

(Stats. 1905, 294, ch. CCXC.)

§ 1. Any person, association of persons or corporation desiring to develop or utilize, to propel machinery, the power generated by the movement of the waters of the channel or entrance from the Pacific Ocean into that bay known as "False Bay," situate in the county of San Diego, state of California, and which said channel lies between pueblo lots numbered eighteen hundred and three, two hundred and four, two hundred and three and two hundred and five of the city of San Diego, in said county, according to the map of said city, must publish a notice, at least once in each week, for three successive weeks, in a newspaper published in the city of San Diego aforesaid, stating the time at which application will be made to the board of supervisors of said county for authority to so develop or use the aforesaid power. After notice is given application must be made to said board of supervisors, at any meeting specified in said notice, for authority aforesaid. On the hearing any person may appear and be heard. The board may take testimony, or authorize it to be taken by any judicial officer of said county, and it may adjourn the hearing from time to time. If the board are of the opinion that the public interests will be promoted thereby, it may, by the assent of a majority of all members present, by an order entered in its minutes, grant to such applicant authority to use said waters, together with a strip of land, not to exceed one thousand feet in width, commencing at the ordinary high-water mark, on one of the shores of said channel, and extending to the ordinary high-water mark on the opposite shore of said channel, for the purpose of developing or utilizing the power generated by the action of the waters of said channel to operate or propel machinery; also to place, construct, and maintain upon said land and out into or over said waters, wheels, and such other structures as are necessary or convenient for

the installation, maintenance or operation of wheels and machinery to be propelled by the power generated by the action of said waters.

§ 2. Every person, association of persons or corporation so acquiring the right to occupy such lands or waters, shall, on the first day of January of each year thereafter, and so long as they shall occupy the same, pay to the county treasurer of said county the sum of twenty-five dollars per annum for the use and occupation thereof.

§ 3. This act shall take effect from and after its passage.

FEATHER RIVER BRIDGE.

To declare the bridge across Feather River, extending from Fifth Street, at the city of Marysville, in the county of Yuba, to the opposite bank of said river, a free bridge.

(Stats. 1891, 263, ch. CLXXXIII.)

§ 1. The bridge extending across Feather River from Fifth Street, at the city of Marysville, in the county of Yuba, to the opposite bank of said river, and constructed by the county of Sutter, in pursuance of an act of the legislature of this state entitled "An act to authorize the board of supervisors of Sutter County to construct a bridge across Feather River," approved April eleventh, eighteen hundred and fifty-nine, and the various acts amendatory thereof and supplemental thereto, is hereby declared to be free for all crossings of persons and property, and no tolls shall hereafter be collected or received for the crossing of said bridge.

§ 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

FEES—CITY JUSTICE, OR RECORDER.

Forbidding the payment of municipal officers out of the funds of the county.

(Stats. 1905, 88, ch. LXXXIX.)

§ 1. In no case shall the fees of a city justice of the peace, town or city recorder or city or town marshal, for services in any criminal action, be a charge against the county.

FEES—SAN FRANCISCO.

To repeal an act entitled "An act to regulate fees in the city and county of San Francisco," approved February ninth, eighteen hundred and sixty-six.

(Stats. 1905, 387, ch. CCCXXXI.)

§ 1. An act entitled "An act to regulate fees in the city and county of San Francisco," approved February ninth, eighteen hundred and sixty-six, is hereby repealed.

§ 2. This act shall take effect immediately.

FEES AND COMMISSIONS—STATE.

To abolish commissions or fees paid by the state for the assessment, equalization, auditing, and collection of ad valorem taxes.

(Stats. 1893, 5, ch. VIII.)

§ 1. All commissions or fees paid by the state to the officers of any county, or city and county, for services rendered in the assessment, equalization, auditing, and collection of ad valorem taxes, are hereby abolished; provided, that this shall not affect the commissions paid to the assessor of the several counties for services rendered in the collection of personal property taxes, as provided by chapter eight of the Political Code, or the mileage allowed to the treasurer of the several counties, or cities and counties, in making settlements with the state, as provided by section three thousand eight hundred and seventy-six of the Political Code.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect from and after the first Monday in May, eighteen hundred and ninety-three.

See *County Yolo vs. Colgan*, 132 Cal. 265, 64 Pac. Rep. 403, 84 Am. St. Rep. 41.

FEES OF OFFICERS—COUNTY AND TOWNSHIP.

To establish the fees of county, township, and other officers and of jurors and witnesses in this state.

(Stats. 1895, 267, ch. CCVII.)

§ 1. The following county, township and other officers shall charge and collect the following fees:

COUNTY CLERK.

On the commencement of any action or proceeding in the superior court, except probate proceedings, or on an appeal thereto, to be paid by the party commencing such action or proceeding, or taking such appeal, five dollars.

On the filing of a petition for letters of administration, testamentary or guardianship, five dollars, to be paid by the petitioner; provided, that at the time of filing the inventory and appraisal in any such proceeding there shall be an additional deposit of one dollar for each additional thousand dollars of the appraised valuation, in excess of three thousand dollars.

On filing the petition to contest any will or codicil, three dollars.

On the appearance of any defendant, or any number of defendants answering jointly, to be paid upon filing the first paper in the action by him or them, two dollars.

On placing any action, excepting a probate proceeding or default case, on the calendar for trial or hearing, to be paid by the party at whose request such action or proceeding is so placed, two dollars.

For every additional defendant appearing separately, one dollar.

The foregoing fees shall be in full for all services rendered by such clerk in the cause, to and including the making up of the judgment roll.

On the filing of any notice of motion to move for a new trial of any civil action or proceeding, the party filing same shall pay to the clerk, in full for all services

to be rendered in connection with said motion, except as hereinafter in this section provided, two dollars.

For issuing an execution or order of sale in any action, one dollar.

In all proceedings begun or acts performed prior to this act becoming a law, such fees and charges as were provided by law at the time such proceedings were begun or acts performed.

The clerk shall also charge and collect the following fees and compensation not above provided for:

For any copy of any record, proceeding, or paper on file in the office of the clerk relating to any civil action pending in said court, when such copy is made by him, per folio, ten cents.

For each certificate of the clerk, under the seal of the court, twenty-five cents.

For filing each claim in probate or insolvency proceedings, fifteen cents.

No fees shall be allowed or charged by the clerk for services rendered in any criminal case.

For services rendered by the clerk, not in connection with civil actions or proceedings in court, he shall charge and collect, for the benefit of the county, the following fees:

For issuing marriage license, one half to be paid to the county recorder, two dollars.

For filing and indexing articles of incorporation, one dollar.

For filing and indexing certificates of copartnership, one dollar.

For filing and indexing all papers to be kept by him, other than papers filed in actions or proceedings in court, and official bonds and certificates of appointment, each, twenty-five cents.

For issuing any license required by law, other than marriage licenses, one dollar.

For examining and certifying to a copy of any paper, record, or proceeding prepared by another, and presented for his certificate, fifty cents, and one cent per folio for comparing the said copy with the original.

For making satisfaction of or credit on judgment, twenty-five cents.

For receiving and filing remittitur from supreme court, fifty cents.

For administering each oath, without certificate, except in a pending action or proceeding, ten cents.

For taking any affidavit, except in criminal cases, twenty-five cents.

For taking and approving each undertaking, and the justification thereof, except in criminal cases, fifty cents.

For searching records or files, for each year, fifty cents.

For taking acknowledgment of any deed or other instrument, including the certificate, fifty cents.

For filing notices of appeal and appeal bonds, each, twenty-five cents.

SHERIFF.

For serving any process, writ, order or paper, except as hereinafter provided, required by law to be served by the sheriff, fifty cents.

For serving a writ of attachment, execution or order for the delivery of personal property, one dollar.

For taking any bond or undertaking, fifty cents.

For serving an attachment or execution on any ship, boat or vessel, three dollars.

For keeping and caring for property under attachment or execution, such sum as the court may fix; provided, that no greater sum than two dollars per day shall be allowed to a keeper when necessarily employed.

For a copy of any writ, process or paper actually made by him, when required or demanded according to law, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For advertising sale of property and posting notice, exclusive of cost of publication, or furnishing notice for publication, each, fifty cents.

For publication of notice in newspaper, the reasonable cost of publication, subject to the approval of the court.

For serving writ of possession or restitution, putting a person in possession of the premises and removing the occupant, one dollar and fifty cents.

For subpœnaing witness, including copy of subpœna, each, twenty-five cents.

For summoning trial jury of twelve or less, two dollars; for each additional juror, ten cents.

For traveling in the service of any paper required by law to be served, for each mile actually and necessarily traveled, one way only, fifteen cents, when such travel can be made by rail; in other cases, twenty-five cents. No constructive mileage to be allowed.

For collecting money on execution, with or without levy, one per centum on the first thousand dollars or less, and one half of one per centum on all sums over one thousand dollars.

For executing and delivering sheriff's deed, one dollar and fifty cents.

For executing and delivering certificate of sale, fifty cents.

For transporting prisoners to the county jail, the actual cost of such transportation.

For executing and delivering any other instrument, ten cents per folio.

RECORDER.

For recording every instrument, paper or notice required by law to be recorded, per folio, ten cents.

For indexing every instrument, paper or notice, for each name, ten cents.

For filing every instrument for record and making the necessary entries thereon, twenty cents.

For each certificate under seal, twenty-five cents.

For every entry of discharge, credit or release on the margin of record, and indexing same, twenty-five cents.

For searching the records of his office, for each year, fifty cents.

For abstract of title, for each conveyance or encumbrance, twenty-five cents.

For recording each map or plat where the same is copied in a book of record, for each course, ten cents.

For recording each map or plat where the same is not copied in a book of record, fifty cents.

For figures or letters on maps or plats, per folio, ten cents; provided, that the fees for recording any map shall not exceed fifty dollars.

For taking acknowledgment of any instrument, fifty cents.

For recording marriage license and certificate, to be paid by the county clerk, one dollar.

For recording transcript and all services in estray cases, one dollar.

For recording each mark or brand, fifty cents.

For administering each oath or affirmation and certifying the same, twenty-five cents.

For filing, indexing and keeping each paper not required by law to be recorded, twenty-five cents.

The clerk, sheriff, and recorder shall account for all fees in this section provided for, and the clerk, sheriff and recorder, unless otherwise provided by law, shall pay the same to the county treasurer on the first Monday of the month following their collection, as provided in this act.

CONSTABLES AND MARSHALS.

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than two dollars per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for such copies.

For serving any writ, notice or order, except summons, complaint or subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, twenty-five cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per centum.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, except a warrant of arrest, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in going only, fifteen cents; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage allowed.

For each mile necessarily traveled within his county in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents.

For each mile traveled out of his county, both going and returning from place of arrest, five cents; provided, that no mileage shall be charged for a warrant of arrest or criminal process served outside of his township, except such service be approved in writing by the district attorney of the county; and provided further, that for traveling in the performance of two or more official services at the same

time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged; provided, that in criminal cases he shall not receive more than one hundred dollars in any one month, and not more than one thousand dollars in any one year.

For executing a search warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into court, one dollar.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to the county jail, the actual cost of such transportation.

Provided, that the board of supervisors may reject all bills presented to the county by justices of the peace and constables for fees in criminal cases in all cases of proceedings in which the district attorney has not, in writing, approved the issuance of the warrant of arrest.

County officers must, and township officers may, demand the payment of all fees in civil cases, in advance.

JUSTICES OF THE PEACE.

Justices of the peace may, for their own use, collect the following fees, and no others:

Each justice of the peace shall be allowed, in a civil action before him, for all services to be performed by him before trial, two dollars; and for the trial and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issue of execution thereon, three dollars; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, two dollars.

For all services in a criminal action or proceeding, whether on examination or trial, three dollars; provided, however, that no more than the sum of seventy-five dollars in any one month shall be allowed out of the county treasury, in misdemeanor cases, to any one justice.

For taking bail after commitment by another magistrate, fifty cents.

For certificate and transmitting transcript and papers on appeal, one dollar.

For copies of papers on docket, per folio, ten cents.

For issuing a search warrant, to be paid by the party demanding the same, fifty cents.

For celebrating a marriage, and returning a certificate thereof to the county recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For taking depositions, per folio, fifteen cents.

For administering an oath, and certifying the same, twenty-five cents.

For issuing a commission to take testimony, fifty cents.

For all services connected with the posting of estrays, one dollar.

In cases before the justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive one dollar; and the justice before whom the trial shall take place shall receive the same fees as if the action had been commenced before him.

For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in like cases.

For issuing each process, writ, order, or paper required by law to be issued not otherwise herein provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, ten cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For taking and approving bond or undertaking, including the justification of sureties, fifty cents.

19. Jurors' and witness' fees shall be as follows:

JURORS' FEES.

For attending as a grand juror or juror in the superior court, for each day's attendance, per day, two dollars.

For attending justice's court, for each juror sworn to try the cause, per day, in civil cases only, two dollars.

For each mile actually traveled in attending court, as a juror, except in criminal cases in justice's court, for which no allowance shall be made, in going only, per mile, fifteen cents.

WITNESS' FEES.

For each day's actual attendance, when legally required to attend upon the superior court, per day, two dollars in civil cases, and one dollar and fifty cents in criminal cases.

Mileage actually traveled, one way only, per mile, ten cents; provided, however, that in criminal cases, such per diem and mileage shall only be allowed upon a showing to the court, by the witness, that the same are necessary for the expenses of the witness in attending, and the court shall determine the necessity for the same, and may disallow any fees to a witness unnecessarily subpoenaed.

For each day's attendance upon justice's court, in civil cases only, when legally required to attend, per day, one dollar.

For each mile actually traveled, in civil cases only, in justice's court, in going only, ten cents.

Witnesses in civil cases may demand the payment of their mileage and fees for one day in advance, and when so demanded shall not be compelled to attend until the same shall have been paid.

CORONERS.

Coroners may, for their own use, collect the following fees, and no others:

For general services in holding an inquest, ten dollars.

For each witness subpoenaed, twenty-five cents.

For each mile necessarily traveled in going to the place of the inquest, twenty-five cents.

For directing or attending the interment of each body upon which an inquest has been held, two dollars; which fees shall be all that he shall be entitled to charge.

When acting as or in the place of the sheriff, the same fees as are allowed the sheriff for like services.

PUBLIC ADMINISTRATOR.

The public administrator shall charge and collect such fees as are now or may hereafter be allowed by law.

COUNTY SURVEYOR.

The county surveyor shall charge and collect such fees as are now or may hereafter be allowed by law.

NO FEES FOR CERTAIN SERVICES.

§ 2. No fees or other compensation shall be paid for certificates of declaration to become a citizen of the United States, and for making a record thereof, or for issuing a certificate of citizenship to become a citizen of the United States, or for making a record thereof; and no fees or other compensation shall be paid for filing the statement and affidavit of a committee or candidate voted for at any public election held within the state; and this section shall apply to all the counties in this state.

§ 3. All acts or portions of acts inconsistent herewith are hereby repealed.

§ 4. This act shall take effect immediately.

Statutes fixing fees of county and township officers prior to the County Government Act of 1883 were repealed by the latter statute in the following provisions: Sec. 164—"The salaries and fees provided for in this act shall be in full compensation for all services of every kind and description rendered by the officers therein named," etc. Sec. 182—"The provisions of this act, so far as it relates to the fees and salaries of all officers named, except justices of the peace and constables, shall not affect the present incumbents," etc. Sec. 184—"All acts and parts of acts inconsistent with this act are hereby repealed." Decisions affecting those provisions of the statute will be found under the title **County Government**, Stats. 1883. So the statute here given purports to fix fees that may be charged and repeals "all acts or portions of acts inconsistent therewith."

Jury fees.—It may be further noted that, while the amount of jury fees is here fixed, yet it has been held that the provision in the statute of 1870, as amended by 1871-2, 188, ch. CLXVIII, that jury fees shall be paid by party calling for jury, where jury is discharged without having arrived at a verdict, has not been repealed by the codes nor by subsequent legislation.—*Carpenter vs. Jones*, 121 Cal. 362, 364, 53 Pac. Rep. 842.

And as to fees in San Francisco, it was held that the statute of 1866 had not been repealed, as to the mode in which payment should be made.—*Hilton vs. Curry*, 124 Cal. 84-89, 56 Pac. Rep. 784; *Birch vs. Phelan*, 127 Cal. 49, 50, 51, 59 Pac. Rep. 209; but that statute is now repealed: 1905, 387, ch. CCCXXXI.

The present statute has been cited as follows: As to San Francisco, *Miller vs. Curry*, 113 Cal. 644, 645, 45 Pac. Rep. 877; justices' fees (unconstitutional), *Dwyer vs. Parker*, 115 Cal. 544, 547, 47 Pac. Rep. 372; justices' fees, *Reid vs. Groezinger*, 115 Cal. 551, 552, 47 Pac. Rep. 374; ad valorem fee (unconstitutional), *Fatjo vs. Pfister*, 117 Cal. 83, 84, 48 Pac. Rep. 1012; jurors, *Carpenter vs. Jones*, 121 Cal. 362, 364, 53 Pac. Rep. 842; justice of the peace, *Cooley vs. County Calaveras*, 121 Cal. 482, 484, 53 Pac. Rep. 1075; jurors' fees, *Hilton vs. Curry*, 124 Cal. 84, 87, 56 Pac. Rep. 784; clerk fees, *Davis & Son vs. Hurgren & Anderson*, 125 Cal. 48, 50, 57 Pac. Rep. 684; justices' fees, San Francisco, *Kozminsky vs. Williams*, 126 Cal. 26, 27, 58 Pac. Rep. 310; jurors' fees, *Birch vs. Phelan*, 127 Cal. 49-51, 59 Pac. Rep. 209; witness fees, *Murphy vs. Madden*, 130 Cal. 674, 676, 63 Pac. Rep. 80; constable (unconstitutional), *Kiernan vs. Swan*, 131 Cal. 410, 412, 63 Pac. Rep. 768; clerk, ad valorem (unconstitutional), *Wingerter vs. San Francisco*, 134 Cal. 547, 86 Am. St. Rep. 94, 66 Pac. Rep. 730; justice of the peace, *Burce vs. Jack*, 135 Cal. 535, 536, 67 Pac. Rep. 907; constables, *Thom vs. County Los Angeles*, 136 Cal. 375, 378, 69 Pac. Rep. 18; jurors, *Powell vs. Phelan*, 138 Cal. 271, 71 Pac. Rep. 335; tax collector, *County Butte vs. Merrill*, 141 Cal. 396, 397, 74 Pac. Rep. 1036; county clerk, *I. X. L. Lime Co. vs. Superior Court*, 143 Cal. 170, 173, 76 Pac. Rep. 973; justice of the peace, *Tucker vs. Barnum*, 144 Cal. 266, 267, 77 Pac. Rep. 919; generally, *County San Diego vs. Schwartz*, 145 Cal. 49, 51, 78 Pac. Rep. 231.

FENCES—DIVISION—CITIES.

Regulating the height of division fences and partition walls in cities and towns.
(Stats. 1885, 45, ch. XXXIX.)

§ 1. It shall be unlawful for the owner of real property in any city or town in this state, or any person having possession thereof, to construct, erect, build,

permit, or maintain upon such premises, any fence or partition wall which shall exceed ten feet in height, without first obtaining a permit to do so from the board of supervisors or city council of the city or town in which said fence or wall is to be erected and maintained.

§ 2. No permit to construct or maintain any fence or division partition wall having a greater height than ten feet, shall be granted by the board of supervisors or city council of any city or town in this state, unless the person applying therefor, and to whom such permit is granted, shall first obtain and present to such board of supervisors or city council the written consent of the person or persons having ownership and possession of the adjoining premises affected thereby; provided, that where such fence or wall is constructed around a public garden, or place of public resort where an admission fee is charged, no signature or consent of adjacent owners shall be required.

§ 3. Any violation of section one of this act shall be deemed a misdemeanor, and the person so offending shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than sixty days nor more than one year, or by both fine and imprisonment.

Western G. & M. Co. vs. Knickerbocker, 103 Cal. 111, 114, 37 Pac. Rep. 192; *Ingwersen vs. Barry*, 118 Cal. 342, 50 Pac. Rep. 536. See tit. **Fences—Lawful**, post.

FENCES—HUNTING.

To prevent the leaving open of inclosures, and hunting on inclosed land.
(Stats. 1875-6, 408, ch. CCCXVIII; amended (sec. 8) 1877-8, 49, ch. XXXVII;
amended (sec. 8) 1877-8, 776, ch. CCCXCIX.)

§ 1. Every person who shall open any gate, bars, or fence of another, for the purpose of passing through, and shall wilfully leave the same open, without the permission of the owner, is guilty of a misdemeanor.

§ 2. Every person who wilfully opens, tears down, or otherwise destroys any fence on the inclosed land of another, is guilty of a misdemeanor.

§ 3. Every person who wilfully enters upon the inclosed land of another for the purpose of hunting, or who discharges firearms, or lights camp-fires thereon without first having obtained permission of the owner or occupant of said land, is guilty of a misdemeanor.

§ 4. Every person who wilfully, carelessly, or negligently, while hunting or camping upon the inclosed land of another, kills, maims, or wounds an animal, the property of another, is guilty of a misdemeanor.

§ 5. Every person who, upon departing from camp, wilfully leaves the fire or fires burning or unextinguished, is guilty of a misdemeanor.

§ 6. Every person found guilty of any of the misdemeanors herein mentioned shall be fined not less than twenty, nor more than fifty dollars, and shall be imprisoned in the county jail until such fine be satisfied, not exceeding one day for every two dollars thereof.

§ 7. All acts and parts of acts in conflict herewith are repealed; provided, however, nothing herein contained shall be construed as repealing section five hundred and ninety-four of the Penal Code.

§ 8. Section three of this act shall not apply to the counties of Los Angeles, San Diego, Sutter, San Benito, Del Norte, El Dorado, Colusa, Yuba, Humboldt,

Amador, Tuolumne, Shasta, Plumas, Lassen, Siskiyou, Modoc, Trinity, Sierra, Placer, and Santa Cruz. [Amendment, Stats. 1877-8, 776. This section was also amended by Stats. 1877-8, 49. That amendment read as follows: "Section three of this act shall not apply to the counties of Los Angeles, San Diego, Sutter, Del Norte, El Dorado, Colusa, Yuba, Humboldt, Amador, Tuolumne, San Luis Obispo, Plumas, Lassen, Siskiyou, Modoc, Shasta, Trinity, Sierra and Placer."]

See note under tit. **Hunting—Private Property**, post.

FENCES—LEAVING OPEN.

To prevent persons passing through inclosures and leaving them open, and tearing down fences to make passage through inclosures.

(Stats. 1871-2, 384, ch. CCLXXX.)

§ 1. Any person passing through an inclosure of another and leaving the same open, is guilty of a misdemeanor, and punishable by a fine not less than twenty dollars nor more than fifty dollars.

§ 2. Any person wilfully or maliciously tearing down fences to make a passage through an inclosure, is guilty of a misdemeanor, and punishable by a fine not less than fifty dollars nor more than five hundred dollars.

§ 3. All fines collected under the provisions of this act shall be paid into the county school fund of the county where the offense is committed.

§ 4. This act shall take effect immediately.

See tit. **Fences—Lawful**; also note under tit. **Hunting—Private Property**, post.

FENCES—LAWFUL.

The following special legislation is noted:

The statute of 1850, 131, ch. XLIX, concerning lawful fences, was repealed, except as to counties of Amador, Butte, Calaveras, Colusa, Klamath, Nevada, Placer, San Bernardino, San Diego, Santa Barbara, Shasta, Siskiyou, Trinity, Tuolumne, and Yuba, by Stats. 1855, 154, ch. CXXIX. The statute of 1855, above, was amended by 1860, 141, ch. CLXXXIII, relating to partition fences; 1861, 510, ch. CCCCLIII, exempting the counties of Amador, Tuolumne, Calaveras, San Diego, Nevada, San Bernardino, Colusa, Placer, Santa Barbara, Yuba, Trinity, Shasta, Klamath, and Siskiyou from the said Act of 1855; by Stats. 1858, 123, ch. CLXVI, so much of the Act of 1855 "as excepts the county of Marin from the operation thereof" is repealed; by Stats. 1861, 513, ch. CCCCLX, the Act of 1855 is amended by declaring that in all counties except Sonoma, Napa, El Dorado, Yuba, and Marin any fence which by reliable evidence is declared as strong, etc., as the fence prescribed by the former act, shall be a "lawful fence."

Contra Costa County, Stats. 1858, 40, 1861, 277.

San Bernardino, Colusa, Shasta, Tehama, Placer, and Yuba counties, 1859, 279; Yuba included 1863, 351, repealed 1871-2, 700.

Tuolumne, 1863-4, 475.

Butte and Yuba, 1871-2, 700.

Modoc, 1873-4, 362; 1875-6, 71.

Napa County—leaving open, etc., 1871-2, 434, § 9.

El Dorado, 1869-70, 584.

Nevada, 1863-4, 318, making 1855, as amended, applicable.

San Joaquin—navigable streams, as inclosure, 1865-6, 539.

Colusa and Tehama, 1875-6, 207.

Various counties—division fences in, 1875-6, 175; 1877-8, 765, 1019.

Gonzales vs. Wasson, 51 Cal. 295.

Meade vs. Watson, 67 Cal. 591, 8 Pac. Rep. 311.

Coterminal owners.—See **KERR'S CYC. CIVIL CODE** §§ 801, 840, 841 and notes; **KERR'S CYC. POL. CODE** §§ 19, 2695 and notes. **As to adverse possession by**, and the statute of limitations, see **KERR'S CYC. CODE CIVIL PROC.** § 318, note pars. 22, 48.

FERRIES—NAVIGABLE STREAMS.

Relating to ferries across navigable rivers separating counties, and empowering the boards of supervisors of such counties to establish and maintain ferries across such rivers, and to pay the expense thereof.

(Stats. 1903, 156, ch. CXLI.)

§ 1. When a navigable river forms a boundary between two counties of this state, the boards of supervisors of such counties are hereby given the power to establish and operate a ferry or ferries across such stream.

§ 2. Each of such counties shall pay such proportion of the expenses of establishing and operating said ferry or ferries as may be agreed upon by the boards of supervisors of such counties.

§ 3. In case either of said counties shall refuse to enter into an agreement to establish and operate such ferry or ferries, the county situated upon the opposite bank of such river may establish and operate a ferry or ferries across such river, and such county is hereby empowered to acquire landing-places for such ferry or ferries on the bank of such river opposite the boundary of such county, and may pay the expense of establishing and operating said ferry or ferries out of the general road fund of such county.

§ 4. This act shall take effect from and after its passage.

FERRY DEPOT—SAN FRANCISCO.

To provide for the issuance and sale of state bonds to create a fund for the construction and furnishing, by the board of state harbor commissioners, of a general ferry and passenger depot in the city and county of San Francisco; to create a sinking fund for the payment of said bonds, and providing for the submission of this act to a vote of the people.

(Stats. 1891, 110, ch. CXI.)

§ 1. For the purpose of providing a fund for the payment of the indebtedness hereby authorized to be incurred by the board of state harbor commissioners, for the erection and furnishing of a general railroad, passenger, and ferry depot, at or near the foot of Market Street, in the city and county of San Francisco, at a cost not to exceed six hundred thousand dollars, which the said board of state harbor commissioners are hereby authorized to construct in the manner and method authorized by law, and at a cost not to exceed said six hundred thousand dollars, the state treasurer shall, immediately after the issuance of the proclamation of the governor, hereinafter provided for, prepare suitable bonds of the state of California: One thousand bonds, in the denomination of one hundred dollars each; five hundred bonds, in the denomination of five hundred dollars each; two hundred and fifty bonds, in the denomination of one thousand dollars each. The whole issue of said bonds shall not exceed the sum of six hundred thousand dollars, which said bonds shall bear interest at the rate of four per centum per annum from their date, and shall be payable at the office of the state treasurer at the expiration of nineteen years from their date. Said bonds shall bear date the first day of January, A. D. eighteen hundred and ninety-three, and shall be payable on the first day of January, A. D. nineteen hundred and twelve. The interest accruing on said bonds shall be due and payable at the office of the said treasurer on the first day of January and the first day of July of each year; provided, that the first payment of interest shall be made on the first day of July, A. D. eighteen hundred and ninety-three, on so many of said bonds as have been heretofore issued. At the expiration of nineteen years from the date of said bonds, they shall cease to bear interest, and said treasurer shall forthwith pay the same out of the San Francisco depot sinking fund, provided for hereinafter in this

act. Said bonds shall be signed by the governor, countersigned by the controller, indorsed by said treasurer, and shall have the seal of the state affixed thereto.

§ 2. Interest coupons shall be attached to each bond, so that they may be removed without injury or mutilation to the bond. Said coupons, consecutively numbered, shall be signed by the state treasurer. But no interest on any of said bonds shall be paid for [at] any time which may intervene between the date of any of said bonds and the issue thereof to a purchaser.

§ 3. The sum of one thousand dollars is hereby appropriated to pay the expense that may be incurred by the state treasurer in having said bonds prepared. Said amount shall be paid out of the San Francisco harbor improvement fund, on controller's warrants duly drawn for that purpose.

§ 4. When the bonds authorized to be issued under this act shall be duly executed, numbered consecutively, and sealed, they shall be by the state treasurer sold at public auction to the highest bidder for cash, and in such parcels as said treasurer shall deem best; but he must reject any and all bids for said bonds, or any of them, which shall be below the par value of said bonds; and he may, by public announcement at the place of sale, continue such sale, as to the whole or any part thereof, to any time and place he may select. Due notice of the place and time of sale of such bonds shall be given by said treasurer, by publication in two newspapers published in the city and county of San Francisco, and also in two newspapers published in the city of Oakland, two published in the city of Los Angeles, and two published in the city of Sacramento, once a week for four weeks prior to such sale. The costs of such publication shall be paid out of the San Francisco harbor improvement fund, on controller's warrants duly drawn for that purpose. The proceeds of the sale of such bonds shall be forthwith paid over by said treasurer into the treasury, and must be by him kept in a separate fund, to be known and designated as the "San Francisco Depot Fund," and must be used exclusively for the building and furnishing of said depot. Drafts and warrants upon said fund shall be drawn upon and shall be paid out of said fund in the same manner as drafts and warrants are drawn upon and paid out of the San Francisco harbor improvement fund.

§ 5. For the payment of the principal and interest of said bonds a sinking fund, to be known and designated as the "San Francisco Depot Sinking Fund," shall be, and the same is hereby created, as follows: The state treasurer shall, on the first day of each and every month after the date of said bonds, take from the San Francisco harbor improvement fund the sum of four thousand six hundred and thirty-one dollars, and place the same in said San Francisco depot sinking fund, created by this section. Said treasurer shall, on controller's warrants duly drawn for that purpose, employ the moneys in said sinking fund in the purchase of bonds of the United States, which said bonds shall be kept in a proper receptacle, appropriately labeled; but he must keep always on hand a sufficient amount of money in said sinking fund with which to pay the interest on the state bonds herein provided to be issued. And to provide means for the payment of said sum of five thousand one hundred and thirty-one dollars, monthly, from said San Francisco harbor improvement fund into said San Francisco depot sinking fund, and for the other payments out of said fund authorized by this act, and as provided for therein, the said board of state harbor commissioners are hereby author-

ized and directed, by the collection of dockage, wharfage, tolls, rents, and crantage, to collect a sum of money sufficient therefor, over and above the amount limited by section two thousand five hundred and twenty-six of the Political Code of the state of California. After the payment of all of said bonds the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the San Francisco harbor improvement fund. At the maturity of said state bonds the said treasurer shall sell the United States bonds then in said sinking fund, at governing market rates, and place the proceeds in said San Francisco depot sinking fund, and shall pay out the same in extinguishment of said state bonds on controller's warrants duly drawn for that purpose.

§ 6. The state treasurer shall keep full and particular account and record of all his proceedings under this act, and he shall transmit to the governor an abstract of all his proceedings thereunder, with his annual report, to be by the governor laid before the legislature; and all books and papers pertaining to the matter provided for in this act shall at all times be open to the inspection of any party interested, or the governor, or attorney-general, or a committee of either branch of the legislature, or a joint committee of both.

§ 7. It shall be the duty of the state treasurer to pay the interest on said bonds when the same falls due, out of the sinking fund provided for in this act, on controller's warrants duly drawn for that purpose.

§ 8. This act, if adopted by the people, as hereinafter provided for, shall take effect on the thirty-first day of December, A. D. eighteen hundred and ninety-two, as to all its provisions, except those relating to and necessary for its submission to the people, and for returning, canvassing, and proclaiming the votes, and as to said excepted provisions this act shall take effect immediately.

§ 9. This act shall be submitted to the people of the state of California for their ratification at the next general election to be holden in the month of November, A. D. eighteen hundred and ninety-two; and the qualified electors of the state shall, at said election, on their ballots, vote for or against this act; those voting for the same shall write or have printed on their ballots the words "For the San Francisco Depot Act," and those voting against the same shall write or have printed on their ballots the words "Against the San Francisco Depot Act." The governor of this state shall include the submission of this act to the people as aforesaid in his proclamation calling for said general election.

§ 10. The votes cast for or against this act shall be counted, returned, and canvassed, and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appear that said act shall have received a majority of all the votes cast for and against it at such election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrevocable until the principal and interest of the liabilities herein created shall be paid and discharged, and the governor shall make proclamation thereof; but if a majority of the votes cast as aforesaid are against this act, then the same shall be and become void.

§ 11. It shall be the duty of the secretary of state to have this act published in at least one newspaper in each county, or city and county, if one be published therein, throughout this state, for three months next preceding the general election to be holden in the month of November, A. D. eighteen hundred and

ninety-two. The costs of such publication shall be paid out of the general fund, on controller's warrants duly drawn for that purpose.

§ 12. This act may be known and cited as the "San Francisco Depot Act."

§ 13. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

See *Bateman vs. Colgan*, 111 Cal. 580, 582, 44 Pac. Rep. 238.

FERTILIZERS—COMMERCIAL.

To regulate the sale of commercial fertilizers or materials used for manurial purposes, and to provide penalties for the infraction thereof, and means for the enforcement of the act.

(Stats. 1903, 259, ch. CCXXV.)

§ 1. Every lot, parcel, or package of commercial fertilizers or materials to be used for manurial purposes (except the dung of domestic animals), sold, offered, or exposed for sale, within this state, shall be accompanied by a plainly printed label, stating the name, brand, and trade-mark, if any there be, under which the fertilizer is sold, the name and address of the manufacturer, importer, or dealer, the place of manufacture, and a chemical analysis, stating the percentages claimed to be therein; of nitrogen, specifying the form or forms in which it is present; of phosphoric acid, available and insoluble; and of potash, soluble in distilled water, and the materials from which all of said constituents are derived. All analyses are to be made according to the methods agreed upon by the American Association of Official Agricultural Chemists. In the case of those fertilizers, the selling price of which is less than eight dollars (\$8) per ton, said label need only give a correct general statement of the nature and composition of the fertilizer it accompanies.

§ 2. No person shall sell, offer, or expose for sale in this state, any pulverized leather, hair, ground hoofs, horns, or wool waste, raw, steamed, roasted, or in any form as a fertilizer, or as an ingredient of a fertilizer or manure, without an explicit statement of the fact; said statement to be conspicuously affixed to every package of such fertilizer or manure, and to accompany and go with every lot, parcel, or package of the same.

§ 3. The manufacturer, importer, agent of, or dealer in any commercial fertilizers, or materials used for manurial purposes, the selling price of which to the consumer is eight (\$8) dollars or more per ton, shall, before the same is offered for sale, obtain a certificate of registration from the secretary of the board of regents of the University of California, countersigned by the director of the agricultural experiment station of the said university, authorizing the sale of fertilizers in this state, and shall securely fix to each lot, parcel, or package of fertilizer the word "Registered" with the number of registry. The manufacturer, importer, agent, or dealer obtaining such registry, shall pay to the said secretary the sum of fifty (\$50) dollars, to be applied as provided in section one of this act; such registration shall expire on the thirtieth day of June of the fiscal year for which it was given; provided, the provisions of this section shall not apply to any agent whose principals shall have obtained a certificate of registration as herein provided. Every such manufacturer, importer, agent, or dealer, who makes or sells, or offers for sale, any such substances, under a name or brand, shall file, on or before the first day of July, in each year, a statement, under oath, with said director, stating such name or brand, and stating the component parts in accord-

ance with the provisions of section one of this act, of the substances to be sold, or offered for sale, or manufactured under each such name or brand.

§ 4. The said director shall annually, on or before the first day of September, take samples in accordance with the provisions of section five hereof of the substance made, sold, or offered for sale, under every such name or brand, and cause analyses to be made thereof in accordance with the provisions of section one hereof, and said analyses may include such other determinations as said director may at any time deem advisable. Dealers in, or manufacturers of fertilizers, must give free access to the director of the agricultural experiment station, or his duly authorized deputy, to all the materials which they may place on the market for sale in California. Whenever the analysis certified by the said director shall show a deficiency of not more than one fourth of one per centum of nitrogen, or one per centum of soluble or available phosphoric acid, or one half of one per centum of potash soluble in distilled water, the statement of the manufacturer or importer, as required in section one of this act, shall not be deemed to be false in the meaning of this act; provided, that this act shall not apply to sales of fertilizing materials made to a registered manufacturer of fertilizers, or to sales for export outside of this state; provided further, that the said director of the agricultural experiment station of the University of California shall, upon the receipt of a sample of fertilizer, accompanied with a nominal fee of two (\$2) dollars, furnish to the user of said commercial fertilizer, such examination or analysis of the sample as will substantially establish the conformity or non-conformity of the said fertilizer to the guarantee under which it was sold.

§ 5. The director of the agricultural experiment station of the University of California, in person or by deputy, is hereby authorized to take a sample not exceeding two pounds in weight for analysis by the said director, or his deputies, from any lot, parcel, or package of fertilizer, or material, or mixture of materials used for manurial purposes, which may be in the possession of any manufacturer, importer, agent, or dealer, but said sample shall be drawn in the presence of said party or parties in interest, or their representatives. In lots of five tons or less, samples shall be drawn from at least ten packages, or, if less than ten packages are present, all shall be sampled; in lots of over five tons, not less than twenty packages shall be sampled. The samples so drawn shall be thoroughly mixed, and from it two equal samples shall be drawn and placed in glass vessels, carefully sealed, and a label placed on each, stating the name or brand of the fertilizer or material sampled, the name of the party from whose stock the sample was drawn, and the time and place of drawing; and said label shall also be signed by the said director or his deputy making such inspection, and by the party or parties in interest, or their representatives present at the drawing and sealing of said samples. One of said duplicate samples shall be retained by the party whose stock was sampled, and the other by the director of the agricultural experiment station of the University of California.

§ 6. The director of the agricultural experiment station of the University of California shall publish in bulletin form, from time to time, at least annually, the results of the analyses hereinbefore provided, with such additional information as circumstances may advise.

§ 7. There is hereby appropriated for the use of the agricultural experiment

station of the University of California at Berkeley, Alameda County, as set forth in this act, out of any moneys in the treasury not otherwise appropriated, the sum of eighteen hundred (\$1,800) dollars for the equipment of a laboratory, with the chemicals and apparatus, and other incidentals necessary to the successful prosecution of the work.

§ 8. In order to further provide for the necessary expenses of this work, there shall be paid by the manufacturer, importer, agent, or dealer, twenty-five cents for every ton of fertilizer sold, the selling price of which to the consumer is eight (\$8) dollars or more per ton. A statement sworn to by the manufacturer, importer, agent, or dealer, of such sales, shall be rendered quarterly to the secretary of the board of regents of the University of California, accompanied by the corresponding amount of the special license fee as above specified; provided, that whenever the manufacturer or importer shall have paid the special license fee herein required, for any person acting as agent or seller for such manufacturer or importer, such agent or seller shall not be required to pay the special license fee named in this section. On receipt of said special license fee and statement, the said secretary shall issue to the manufacturer, importer, agent, or dealer, a certificate of compliance with this section.

§ 9. All moneys, whether received from registry and analytical fees or special license fees, shall be paid to the secretary of the board of regents of the University of California, for the use of said board in carrying out the provisions of this act.

§ 10. Any party selling, offering, or exposing for sale, any commercial fertilizer without the statement required by section one of this act, or with a label stating that said fertilizer contains a larger percentage of any one or more of the constituents mentioned in said section than is actually contained therein, except as provided for in section four, or respecting the sale of which all the provisions of this act have not been fully complied with, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in a sum not less than fifty (\$50) dollars and costs of action for the first offense, and one hundred (\$100) dollars and costs of the action for each subsequent offense. Said fines to be paid into the school fund of the county in which conviction is had.

§ 11. In any action, civil or criminal, in any court in this state, a certificate under the hand of said director, and the seal of said university, stating the results of any analysis, purporting to have been made under the provisions of this act, shall be prima facie evidence of the fact that the sample or samples mentioned in said analysis or certificate were properly analyzed as in this act provided; that such samples were taken as in this act provided; that the substances analyzed contained the component parts stated in such certificate and analysis; and that the samples were taken from the parcels or packages or lots mentioned or described in said certificate.

§ 12. This act shall take effect and be in force from and after July first, nineteen hundred and three.

FIDDLETOWN.

To prevent hogs running at large in.
(Stats. 1873-4, 319.)

FINAL PROCESS.

See tit. Counties—New.

FIRE—CORPORATIONS FOR PREVENTION OF.

The statute of 1875-6, 689, ch. CCCCLXXII (amended Stats. 1897, 223), conferring certain powers upon corporations (underwriters) organized for the purpose of discovering and preventing fires, has been carried into the Civil Code by the statute of 1905, 571, ch. CDXXII.

The subject embraces **Fire Patrols** and **Underwriters**; and in the same chapter has been included the statute of 1891, 126, relating to life, health, and accident insurance. See **KERR'S CYC. CIV. CODE** §§ 453a, 453b, 453c-453p inclusive.

FIRE ON PUBLIC LANDS.

To prevent the destruction of forests by fire on public lands.

(Stats. 1871-2, 96, ch. CII.)

§ 1. Any person or persons who shall wilfully and deliberately set fire to any wooded country or forest belonging to this state or the United States, within this state, or to any place from which fire shall be communicated to any such wooded country or forest, or who shall accidentally set fire to any such wooded country or forest, or to any place from which fire shall be communicated to any such wooded country or forest, and shall not extinguish the same, or use every effort to that end, or who shall build any fire, for lawful purpose or otherwise, in or near any such wooded country, or forest, and through carelessness or neglect shall permit said fire to extend to and burn through such wooded country or forest, shall be deemed guilty of a misdemeanor, and on conviction before a court of competent jurisdiction, shall be punishable by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment; provided, that nothing herein contained shall apply to any person who in good faith shall set a back-fire to prevent the extension of a fire already burning. All fines collected under this act shall be paid into the county treasury for the benefit of the common school fund of the county in which they are collected.

See next following statute, and see also *Garnier vs. Porter*, 90 Cal. 105-109, 27 Pac. Rep. 55; *Galvin vs. Gualala Mill Co.*, 98 Cal. 268-270, 33 Pac. Rep. 93.

See **KERR'S CYC. PEN. CODE** §§ 384, 384a; **KERR'S CYC. POL. CODE** § 3344.

The foregoing statute is intended to be repealed or superseded by the Penal Code amendment, §§ 384, 384a, Stats. 1905, 758.

See also tit. **Forestry—State Board**, post, and tit. **Hunting—Private Property**.

FIRE—CONTIGUOUS OWNER.

To prevent destruction by fire of property of contiguous owner.

(Stats. 1891, 473, ch. CCLIII.)

§ 1. Every person who starts a fire in hay, grain, stubble, or grass, without first carefully providing, by plowing or otherwise, for the keeping of said fire within and upon the premises upon which it is started or set out, and by reason of the non-providing of such barrier any property of an adjoining or contiguous resident or owner is injured, damaged, or destroyed, is guilty of a misdemeanor.

§ 2. This act shall take effect and be in force from and after its passage.

This statute is alluded to in *Stephens vs. Southern Pac. Co.*, 109 Cal. 86, 95, 50 Am. St. Rep. 17, 41 Pac. Rep. 783, 29 L. R. A. 751.

See **KERR'S CYC. PEN. CODE** §§ 384, 384a, Stats. 1905, 758, and last preceding statute.

See also tit. **Forestry—State Board**, post.

FIRE DEPARTMENT—TOWNS.

To amend an act to allow unincorporated towns and villages to equip and maintain a fire department, and to assess and collect taxes, from time to time, for such purpose, and to create a board of fire commissioners (approved March 4, 1881, Stats. 1881, 26), relating to assessing and collecting said taxes.

(Stats. 1899, 69, ch. LIX.)

§ 1. Section one of “An act to amend an act to allow unincorporated towns and villages to equip and maintain a fire department, and to assess and collect taxes from time to time for such purpose, and to create a board of fire commissioners” (approved March fourth, eighteen hundred and eighty-one), is hereby amended to read as follows:

§ 1. Any unincorporated town or village of this state may equip and maintain a fire department for the purpose of protecting property from destruction by fire.

§ 2. Upon the application, by petition, of fifty or more taxpayers and residents of said town or village to the board of supervisors of the county in which said town or village is situated, the said board of supervisors shall appoint three commissioners, to be known as and called a board of fire commissioners, of the town or village for which they are appointed, who shall hold their office until the second Monday in April next thereafter, and until their successors are elected and qualified.

§ 3. The board of fire commissioners so appointed by said board of supervisors, and their successors, shall be authorized and empowered, and it shall be their duty:

1. To fix and establish the fire limits of said town or village, and shall accurately describe the same, in writing by metes and bounds and file a copy thereof, subscribed by them, in the office of the county recorder of the county in which said town or village is situated;

2. To make all contracts with water companies for a supply of water, and attaching hydrants or fire-plugs to the pipes, or conduits, or cisterns of such water company; to make contracts for and to purchase the engines, hose, hose-carts or carriages, and other appliances for the full equipment of a fire company or department;

3. To call an election and submit to the electors residing within the fire limits fixed by them, the question whether a tax shall be levied and raised for the purpose of establishing and maintaining a fire department for the said town, or village, and for protecting the same from loss by fire;

4. To appoint judges, not less than three, and other officers, to conduct such election, and to issue certificates of election;

5. To do and perform such other acts and things as may be proper and necessary to carry out the full intent and meaning of this act.

§ 4. Said election must be called by posting notices in three of the most public places in said town or village, for not less than ten days, and also, if there is a newspaper printed and published in the town or village, by advertising such notice therein at least two regular issues of the paper.

§ 5. Such notice must specify the time and place of holding the election, and

the amount required for each specific purpose, and the amount of money to be raised shall not exceed in any one year one per centum of the assessable property within the fire limits, as fixed by the board of fire commissioners; provided, that after the first year the amount so raised shall not exceed one half of one per centum.

§ 6. The board of fire commissioners must appoint three judges and two clerks to conduct the election, and it must be held in all respects as nearly as practicable in conformity with the general election law; provided, that no new register shall be required, nor legal ballot paper; and provided, further, that the polls may be opened at eight o'clock a. m. and close at five o'clock p. m. on the day appointed for such election.

§ 7. At such election the ballots must contain the words "Tax—Yes" or "Tax—No."

§ 8. The judges of election shall, within twenty-four hours after holding said election, make returns and certify said votes, and the names of the person or persons voted for, to the said board of fire commissioners, and within five days after the returns have been received by the board of fire commissioners they shall count the votes, determine who has been elected, and forthwith issue certificates of election to the persons elected.

§ 9. The board of supervisors must, at the time of levying the county taxes, levy a tax upon all the taxable property within the fire limits of the unincorporated town or village voting such tax sufficient to raise the amount voted. The rate of taxation shall be ascertained by deducting fifteen per centum for anticipated delinquencies from the aggregate assessed value of the property in the district, as it appears on the assessment roll of the county, and then dividing the sum voted by the remainder of such aggregate assessed value. The taxes so levied shall be computed and entered on the assessment roll of the county auditor, and collected at the same time and in the same manner as state and county taxes; and when collected shall be paid into the county treasury for the use of the district in which the tax was voted.

§ 10. All moneys arising from the tax herein authorized to be levied and collected shall be kept by the treasurer of the county in which said town or village is situated, subject only to the order of said board of fire commissioners of said town or village voting said tax.

§ 11. The treasurer shall receive no compensation for the receipt and disbursement of moneys derived under the provisions of this act.

§ 12. The board of fire commissioners are hereby directed and empowered to make all necessary arrangements for the purchase of rights of making connections with the pipes of water companies for fire-plugs or hydrants, in such part of the town or village as they shall deem best for the common interest, and also for purchasing fire hose and carriages, subject, however, to the provisions hereinbefore contained.

§ 13. They shall procure all necessary books and blanks for the purpose of keeping a correct record of their proceedings; and they shall keep a record of all their acts, of all moneys received and disbursed by them, which said books shall be open to public inspection at all times.

§ 14. All accounts, bills, and demands against the fire department shall be audited, allowed, and paid by the board of fire commissioners by warrants drawn on the county treasurer, and the county treasurer shall pay the same in the order in which they are presented.

§ 15. The board of fire commissioners shall, from time to time, and in like manner, submit to a vote of the electors of said town, or village, the propriety of levying and raising an additional tax for keeping in repair the apparatus of said fire department, and maintaining the same in good order and condition.

§ 16. No officer or officers created by this act shall receive any compensation for his or their services.

§ 17. In case of a vacancy of any or all of the members of the board of fire commissioners, after election had, by death, resignation, or otherwise, such vacancy shall be filled by appointment by the board of supervisors of the county in which said vacancy may happen.

§ 18. That in case an election be had under the provisions of this bill, and the electors, by vote, shall decline to equip and maintain a fire department, and refuse to levy and collect a tax for that purpose, no other election shall be called or held under this act within one year next thereafter.

§ 19. An election shall be held annually, on the first Monday of April, for the election of three fire commissioners, who shall take their office on the next succeeding Monday in the same month; and it shall be the duty of the board of fire commissioners to give notice of such elections by posting notices thereof in three public places in the town, for at least two weeks before the day of election. They shall also appoint the judges of election.

§ 20. Each board of fire commissioners shall at the expiration of their term of office, turn over to their successors all the books and documents belonging to the office of said board of fire commissioners, taking their receipt for the same.

§ 21. No assessment or act relating to assessment or collection of taxes, or elections held under the provisions of this act, shall be illegal, void, or voidable on account of any error, omission, or informality, or failure to comply strictly with the provisions of this act, nor on account of any misnomer; but the same shall be liberally construed, with a view to hold valid all acts done under this act.

§ 22. The said board of fire commissioners may regulate the construction of, and order the suspension, discontinuance, removal, repair, or cleaning of, fire-places, chimneys, stoves and stovepipes, flues, ovens, boilers, kettles, forges or any apparatus used in any building, manufactory, or business which may be dangerous in causing or promoting fires, and prescribe limits within which no dangerous nor obnoxious and offensive business may be carried on.

§ 23. They may adopt such ordinance, within the purview of the preceding section, as they may deem proper to prevent fires and conflagrations, and for the protection of property at and during the pendency of any fire, and for that purpose may provide that at and during the pendency of any fire the officers of the fire company or companies present shall be vested with police powers. Such ordinances shall be signed by the said fire commissioners, and published in a newspaper printed in said town or village, or posted in three of the most public places thereof, for the period of two weeks, at the end of which time it shall be and become a law for the government of the inhabitants of said town or village.

§ 24. Any person who shall violate any of the provisions of said ordinance shall be guilty of a misdemeanor.

§ 25. Any justice of the peace within the townships within which said town or village is situated shall have jurisdiction of all prosecutions under this act, and sections fourteen hundred and twenty-six to fourteen hundred and forty-nine, both inclusive, title nine, chapter one, of the Penal Code, are hereby made applicable to proceedings under this act.

§ [26.] 2. All acts or parts of acts, so far as they do conflict with the provisions hereof, are hereby repealed.

§ [27.] 3. This act shall take effect and be in force from and after its passage.

The foregoing so evidently supersedes the statute of 1881, 26, that the former is here omitted. See next succeeding statutes.

FIREMEN—PAID DEPARTMENT.

The possibility of a city of the "first class" (Mun. Cor. Act 1883, and amendments) having no special charter governing its fire department, is too remote to justify publishing the Stats. 1897, 192, ch. CXXXII;

1897, 61, ch. LXX, relating to fire departments in such municipalities.—See *Popper vs. Broderick*, 123 Cal. 456, 56 Pac. Rep. 53, and cases there cited. And see note at head of tit. **Fire—Corporations**, etc.

FIRE DEPARTMENT—VACATION.

Authorizing and requiring boards or commissions having the management and control of paid fire departments to grant the members thereof yearly vacations.

(Stats. 1895, 76, ch. LXXXIV; amended 1899, 57, ch. XLIX, and 1905, 39, ch. XLIV.)

§ 1. In every city or city and county of this state where there is a regularly organized paid fire department, the board of supervisors, common council, commissions or other body having the management and control of the same are authorized and required once in every year to provide for each regular or permanent member thereof, a leave of absence from active duty of not less than five, nor more than fifteen days, in each year and in addition thereto a leave of absence from active duty of four days in every month of such service. Leave of absence so granted, as aforesaid, must be arranged by said board of [or] commissions, so as not to interfere with or any way impair the efficiency of the said department; no deduction must be made from the salary or pay of any member of such fire department granted such leave of absence in the provisions of this act. [Amendment, 1905, 39.]

The foregoing statute apparently supersedes the statute of 1895, 96, and amendatory statute of 1899, 57; the former statutes are therefore omitted.

FIREMEN—PENSIONS.

To amend an act entitled "An act to authorize the boards of supervisors or other governing authority of the several counties, cities and counties, cities, and towns of the state to provide pensions or benefits for the relief of aged, infirm, or disabled firemen," approved March eleventh, eighteen hundred and eighty-nine.

(Stats. 1901, 575, ch. CLXXXI.)

§ 1. The board of supervisors, or other governing authority of the several counties, cities and counties, cities and towns of the state in which fire departments exist, shall, upon the written petition of a majority of the lawfully registered electors of any such political division respectively, by appropriate ordinances, provide a fund by general tax upon the property of the county, city and county, city, or town, for the relief of aged, infirm, or disabled firemen; provided, that such disability shall be caused by exposure while in the discharge of such duty. [Amendment, Stats. 1901, 575.]

§ 2. No person shall be entitled to any benefits from any fund created by authority of this act, unless he shall have served as an active member in the fire department of such county, city and county, city, or town, at least fifteen years, and any person having served in the fire department of such county, city and county, city, or town, at least fifteen years, may make application to be placed on the retired list of such fire department, and he shall receive the sum of not more than twenty-five (25) dollars and not less than fifteen (15) dollars per month, to be paid out of said fund, and those members of a fire department who have been paid a stipulated salary, having served fifteen years in such fire department, shall receive an amount equal to one half of the salary provided by law at the time of such retirement; provided, that any person injured in the actual discharge of fire duty shall be entitled to the benefits of this act regardless of his length of service in the fire department of any such county, city and county, city, or town. [Amendment, Stats. 1901, 575.]

§ 3. This act shall take effect from and after its passage.

The foregoing statute purports to "amend," but it in fact supersedes the former statute of 1889, in every section. This statute is also probably superseded by the next following statute of 1905, 412.

FIREMEN—RELIEF, INSURANCE, PENSION.

To create a firemen's relief, health, and life insurance and pension fund in the several counties, cities and counties, cities, and towns of the state.

(Stats. 1905, 412, ch. CCCLI.)

§ 1. The chairman of the board of supervisors of the county, city and county, city, or incorporated town in which there is no board of fire commissioners, the treasurer of the county, city and county, or incorporated town, and the chief of the fire department, and their successors in office, are hereby constituted a board of trustees of the firemen's relief or pension fund of the fire department, to provide for the disbursement of the same and to designate the beneficiaries thereof as hereinafter directed, which board shall be known as the "Board of Firemen's Pension Fund Commissioners"; provided, however, that where there is in any county, city and county, city, or town, a board of fire commissioners, then such body shall constitute said board of trustees of the firemen's relief and pension fund of the fire department.

§ 2. They shall organize as such board by choosing one of their number as chairman, and by appointing a secretary. The treasurer of the county, city and county, city, or town, shall be ex officio treasurer of said fund. Such board of trustees shall have charge of and administer said fund, and to order payments therefrom in pursuance of the provisions of this act. They shall report annually,

in the month of June, to the board of supervisors, or other governing authority of the county, city and county, city, or incorporated town, the condition of the firemen's relief and pension fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund and the amounts paid them.

§ 3. Whenever any person at the taking effect of this act, or thereafter shall have been duly appointed or selected and sworn, and have served for twenty years, or more, in the aggregate, as a member, in any capacity or any rank whatever of the regularly constituted fire department of any such county, city and county, city, or town which may hereafter be subject to the provisions of this act, said board may, if it see fit, order and direct that such person after becoming sixty years of age be retired from further service in such fire department, and from the date of the making of such order the service of such person in such fire department shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund a yearly pension equal to one half of the amount of salary attached to the rank which he may have held in said fire department for the period of one year next preceding the date of such retirement.

§ 4. Whenever any person, while serving as a fireman in any such county, city and county, city, or town, shall become physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duty as such fireman, said board may, upon his written request, or without such request, if it deem it to be for the good of said fire department force, retire such person from said department, and order and direct that he shall be paid from said fund, during his lifetime, a yearly pension equal to one half of the amount of salary attached to the rank which he may have held on such fire department force at the date of such retirement, but on the death of such pensioner his heirs or assigns shall have no claim against or upon such firemen's relief or pension fund; provided, that whenever such disability shall cease such pension shall cease, and such person shall be restored to active service at the same salary he received at the time of his retirement.

§ 5. No person shall be retired, as provided in the next preceding section, or receive any benefit from said fund, unless there shall be filed with said board certificates of his disability, which certificates shall be subscribed and sworn to by said person, and by the county, city and county, city, or town physician (if there be one), and two regularly licensed practising physicians of such county, city and county, city, or town, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid.

§ 6. Whenever any member of the fire department of such county, city and county, city, or town, shall lose his life while in the performance of his duty, leaving a widow, or child or children under the age of sixteen years, then upon satisfactory proof of such facts made to it, such board shall order and direct that a yearly pension, equal to one third the amount of the salary attached to the rank which such member held in said fire department at the time of his death, shall be paid to such widow during her life, or if no widow, then to the child or children, until they shall be sixteen years of age; provided, if such widow, or child or children, shall marry, then such person so marrying shall thereafter receive no further pension from such fund.

§ 7. Whenever any member of the fire department of such county, city and county, city, or town, shall, after ten years of service, die from natural causes, then his widow or children, or if there be no widow or children, then his mother or unmarried sisters, shall be entitled to the sum of one thousand dollars from such fund.

§ 8. Any person retired for disability under this act may be summoned before the board herein provided for at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of such board with reference thereto; and all members of the fire department force who may be retired under the provisions of this act shall report to the chief of the fire department of the county, city and county, city, or town where so retired, on the first Mondays of April, July, October, and January of each year; and in cases of great public emergency may be assigned to and shall perform such duty as said chief of the fire department may direct; and such persons shall have no claim against the county, city and county, city, or town, for payment for such duty so performed.

§ 9. When any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall become a non-resident of this state, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board under this act, in respect to said examination or duty, then such board shall order that such pension allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension, allowance, or benefit under this act.

§ 10. The board herein provided for shall hold quarterly meetings on the first Mondays of April, July, October, and January of each year, and upon the call of its president; it shall biennially select from its members a president and secretary; it shall issue warrants, signed by its president and secretary, to the persons entitled thereto of the amount of money ordered paid to such persons from such fund by said board, which warrant shall state for what purpose such payment is to be made; it shall keep a record of all its proceedings, which record shall be a public record; it shall, at each quarterly meeting, send to the treasurer of the county, city and county, city, or town, and to the auditor of such county, city and county, city, or town, a written or printed list of all persons entitled to payment from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The auditor shall thereupon enter a copy of said list upon a book to be kept for that purpose, and which shall be known as "The Firemen's Relief and Pension Fund Book." When such list has been entered by the auditor, he shall transmit the same to the board of supervisors, or other governing authority of such county, city and county, city, or town, which board of authority shall order the payment of the amounts named therein out of "The Firemen's Relief and Pension Fund." A majority of all the members of said board herein provided for shall constitute a quorum, and have power to transact business.

§ 11. The board herein provided for shall, in addition to other powers herein granted, have power,—

First—To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president, or any member of said board, may administer oaths to such witnesses.

Second—To appoint a secretary, and to provide for the payment from said fund of all its necessary expenses including secretary hire and printing; provided that no compensation or emolument shall be paid to any member of said board for any duty required or performed under this act.

Third—To make all needful rules and regulations for its guidance, in conformity with the provisions of this act.

§ 12. The board of supervisors, or other governing authority, of any county, city and county, city, or town, shall, for the purposes of said "Firemen's Relief and Pension Fund" hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund, of the following moneys:

First—All rewards given or paid to members of such firemen's force.

Second—All fines imposed upon members of the fire department in keeping with rules and regulations of the department.

Third—The treasurer of any county, city and county, city, or town, shall retain from the pay of each member of the fire department the sum of two per centum of each month's pay to be forthwith paid into said firemen's relief and pension fund, and no other or further retention or deduction shall be made from such pay for any other fund.

Fourth—One half of all fines imposed and collected for violation of laws pertaining to precaution against fire.

§ 13. Any firemen's life and health insurance fund, or any fund provided by law, heretofore existing in any county, city and county, city, or town, for the relief or pensioning of firemen, or their life or health insurance, or for the payment of a sum of money on their death, shall be merged with, paid into, and constitute a part of the fund created under the provisions of this act; and no person who has resigned or been dismissed from said fire department shall be entitled to any relief from such fund; provided, that any person, who, within one year prior to the passage of this act, has been dismissed from the fire department for incompetency or inefficiency, and which incompetency or inefficiency was caused solely by sickness or disability contracted or suffered while in service as a member thereof, and who has, prior to said dismissal, served for twelve or more years as such member, shall be entitled to all the benefits of this act.

§ 14. On the last day of June of each year, or as soon thereafter as practicable, the auditor of such county, city and county, city, or town, shall make a report to the board of supervisors, or other governing authority of such county, city and county, city, or town, of all moneys paid out on account of said fund during the previous year, and of the amount then to the credit of the "Firemen's Relief and Pension Fund," and all surplus of said fund then remaining in said fund exceeding the average amount per year paid out on account of said fund during the three years next preceding, shall be transferred to and become a part of the general fund of every such county, city and county, city, or town, and no longer under the control of said board, or subject to its order. Payments provided for in this act shall be made quarterly, upon proper vouchers.

The foregoing statute apparently supercedes the statute of 1901, 101, ch. LXXXVII, as amended 1903, 158, ch. CXLIII, which are here omitted. The Statute of 1895, 107, for

creating a relief fund for **Exempt Firemen**, was held unconstitutional in *Taylor vs. Mott*, 123 Cal. 497, 498, 56 Pac. Rep. 256.

FISH AND GAME—AMERICAN RIVER.

To authorize and empower the board of fish commissioners to remove certain obstructions in the American River for the passage of fish up said stream and its tributaries, and appropriating money therefor.

(Stats. 1889, 66, ch. LXX.)

§ 1. The state board of fish commissioners are hereby authorized and directed during the year eighteen hundred and eighty-nine to remove obstructions in the American River called Salmon Falls, in El Dorado County, state of California, so as to allow the free passage of fish up said river and its tributaries.

§ 2. The sum of five hundred dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose of removing said obstruction.

§ 3. The state controller is hereby authorized to draw his warrant for such sum of five hundred dollars, and the treasurer is hereby authorized to pay the same.

§ 4. This act shall take effect from and after its passage.

FISH AND GAME—BATTLE CREEK.

To authorize the board of fish commissioners to dispose of the hatchery located on Battle Creek, in Tehama County, and to expend the proceeds of the same.

(Stats. 1897, 89, ch. LXXXVI.)

§ 1. The board of fish commissioners of this state are hereby authorized and empowered to sell to the United States commissioner of fish and fisheries, the hatchery building located on Battle Creek, in Tehama County, together with the leases and water rights belonging thereto, for the original cost of the same, to wit: twenty-six hundred dollars.

§ 2. The proceeds of said sale shall be deposited in the state treasury, to the credit of the fish commission fund, to be expended in the erection or improvement of the state hatcheries.

§ 3. This act shall take effect on and after its passage.

FISH AND GAME—LAKE BIGLER.

For the preservation of fish in Lake Bigler.

(Stats. 1877-8, 746, ch. CCCCLXXXII.)

§ 1. It shall not be lawful for any person or persons to catch or kill any fish in the waters of Lake Bigler, or in any stream leading into or from said Lake Bigler, with any seine, gill-net, spear, wire fence, basket, trap-set net, or dam, or any poisonous, deleterious, or stupefying drug, or explosive compound, or any other implement or appliance, except by means of a hook and line.

§ 2. Any person or persons who shall violate any provision of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace, in Placer County, El Dorado County, or Nevada County,

shall be punished by a fine of not less than one hundred dollars nor more than five hundred [dollars], or by imprisonment in the county jail not less than thirty days nor more than four months, or by both such fine and imprisonment, in the discretion of the court, for each and every offense, besides the cost of prosecution.

§ 3. The district attorney, or his deputy, of El Dorado County, or of Placer County, or of Nevada County, whichever the informer may notify as within the district attorney's jurisdiction, shall prosecute such suits, and upon conviction all fines, damages, and penalties that may be awarded or collected under this act shall be paid one half to the district attorney and one half to the informer, share and share alike; and it is hereby made the duty of the district attorney, or his appointed deputy of the counties of Placer, El Dorado, and Nevada, to prosecute all cases arising under this act.

§ 4. All acts, and provisions of any act or parts of acts conflicting with this act, are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage.

FISH AND GAME—EEL RIVER.

To regulate salmon fisheries on Eel River, Humboldt County.

(Stats. 1859, 298, ch. CCLXXII.)

§ 1. It shall be lawful to catch or take salmon from Eel River, at any time between the fifteenth day of September and the twenty-fifth day of November, of each year, in any manner, and by any means, not prohibited by the laws of this state.

§ 2. The owners of land, fronting on the above-named river, shall have exclusive right and privilege of casting, hauling, and landing seines and nets, on their own water front. For the purposes of this act, all bars, and the bed of said river, lying between the lines of the official survey and extreme low-water mark, shall be deemed and held to be the water front of the landowner whose lines border on said river, or run nearest thereto.

§ 3. Where there is a bar, or grade, suitable for landing seines or nets, on one side of the river, and a bold shore, and steep, abrupt bank on the other, the owner, or owners, of the land embracing such bar, or grade, shall have the exclusive privilege of using the entire width of the river, for fishing purposes, at such points or places; provided, always, that such owner, or owners, shall in nowise impede, or interfere with, the navigation of said river.

§ 4. Whenever, on both sides of said river, there is a bar, or grade, suitable for landing seines or nets, the owners of the land on each side of said river, embracing such bars, or grades, shall exercise fishing privileges and rights to the center of the river, at low-water mark.

§ 5. Any person who shall cast, haul, or draw any seine, or net, on Eel River, for the purpose of catching salmon, at any other season than named in this act, or not having the right to cast, haul, draw, or land such seine, or net, as provided in this act, shall be deemed, and held to be, a trespasser against the persons whose rights are by this act fixed and determined, and, in addition to any civil action had thereon, may be convicted of a misdemeanor, for every such offense.

and punished by fine, not less than twenty-five [dollars], nor exceeding two hundred dollars, or imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

To the extent of rights of landowners, and subject to seasons prescribed by general laws, the above act is held to be in force, in *Heckman vs. Swett*, 107 Cal. 276, 40 Pac. Rep. 420. See **KERR'S CYC. PEN. CODE**, § 23.

FISH AND GAME—FISHWAYS.

To provide for the construction, maintenance, and regulation of fishways in streams naturally frequented by salmon, shad, and other migratory fish.

(Stats. 1880, 121, ch. CXIV.)

§ 1. It shall be the duty of the state board of fish commissioners to examine, from time to time, all dams and artificial obstructions in all rivers or streams in this state, naturally frequented by salmon, shad, or other migratory fish, and if, in their opinion, there is not free passage for fish over or around any dam or artificial obstruction, to notify the owners or occupants thereof to provide the same within a specified time with a durable and efficient fishway, of such form and capacity and in such location as shall be determined by the fish commissioners, or persons authorized by them. If such fishway is not completed to the satisfaction of said commissioners within the time specified, the owners or occupants of such dam or artificial obstruction shall be deemed guilty of a misdemeanor, and may be prosecuted by action, on complaint before any justice's court or justice of the peace in the county where such dam or artificial obstruction is situated, and, on conviction, shall be fined two hundred and fifty dollars, and the plaintiff shall recover full costs; and one half of such fine shall be for the benefit of and shall be paid to the person making the complaint, and the other half shall be paid into the state treasury for the benefit of the fund for "Preservation and Restoration of Fish," and may be expended by the state board of fish commissioners, in their discretion, for the obstruction and maintenance of fishways.

§ 2. It shall be incumbent upon the owners or occupants of all dams or artificial obstructions, where the state board of fish commissioners require such fishway to be provided, to keep the same in repair, and open, and free from obstructions to the passage of fish at all times; and any owners or occupants of any such dam or artificial obstruction who neglects or refuses to keep such fishway in repair, and open, and free from obstruction to the passage of fish, shall be guilty of a misdemeanor, and subject to the same fine, and which shall be recovered in the same manner, and applied to the same purposes, as provided in section one of this act.

§ 3. Any person who shall wilfully or knowingly destroy, injure, or obstruct any such fishway, or any person who shall at any time take or catch any salmon, shad, or other migratory fish or trout, except by hook and line, within three hundred feet of any fishway required by the state board of fish commissioners to be provided and kept open, or shall take or catch any such fish in any manner within fifty feet of such fishway, shall be guilty of a misdemeanor, and subject to the same fine, and which shall be recovered in the same manner and applied to the same purposes, as provided in section one of this act.

§ 4. This act shall take effect and be in force from and after its passage.

FISH AND GAME—GAME BIRDS.

To authorize the state board of fish commissioners to import game birds into the state for propagation, and to appropriate money for that purpose, and providing a penalty for the shooting, trapping, killing, or otherwise destroying any of said birds within this state.

(Stats. 1889, 304, ch. CCX.)

§ 1. The state board of fish commissioners is hereby authorized to purchase for the purposes of propagation, import into this state, and distribute to such places within this state as may in their judgment be best suitable for the same, such game birds as they may be able to secure, including wild turkeys, prairie chickens, bob-white quail, pheasants, grouse, skylarks, and others valuable as game birds.

§ 2. For the purposes of this act the sum of two thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to be used in the discretion of the state board of fish commissioners, who are hereby authorized to draw the whole or any portion of said money; but after expenditure, itemized bills of expense shall be submitted for the money expended.

§ 3. The controller shall draw his warrant on the requisition of said board of fish commissioners for the whole or any portion of said appropriation, and the treasurer shall pay the same.

§ 4. Any person who shall, within this state, prior to the first day of January, eighteen hundred and ninety-five, shoot, trap, kill, or otherwise destroy any bird mentioned in section one of this act, is guilty of a misdemeanor, and the shooting, trapping, killing, or otherwise destroying of each of said birds shall be a separate offense.

§ 5. This act shall take effect and be in force on and after its passage.

FISH AND GAME—STEAM LAUNCH.

To authorize the board of fish commissioners to dispose of the steam launch "Governor Stoneman," and to replace it by two smaller boats to be used as patrol boats. (Stats. 1889, 350, ch. CCXXXIX.)

§ 1. The board of fish commissioners of this state are hereby authorized and empowered to cause to be sold the steam launch "Governor Stoneman," as it is unfit for their purposes.

§ 2. The proceeds of said sale of said steam launch shall be deposited to the credit of the fish commission fund, said sum of money to be expended to procure two boats, of smaller dimensions, better calculated for the service of patrolling the waters of this state.

§ 3. Said sale to be to the highest bidder, at a public or private sale, and to be confirmed by the state board of examiners.

§ 4. This act shall take effect on and after its passage.

FISH AND GAME—GASOLINE LAUNCH.

To authorize the board of fish commissioners of the state of California to purchase or construct a gasoline launch, to aid in carrying out the purposes of said board, and appropriating money therefor.

(Stats. 1897, 346, ch. CCXXIX.)

§ 1. The board of fish commissioners of this state are hereby authorized and empowered to cause to be purchased or constructed a gasoline launch of light draft suitable to patrol the waters of this state.

§ 2. Said launch when purchased or constructed shall be under the exclusive control of the said board of fish commissioners, and shall be used by them in carrying out the purposes of said board.

§ 3. The claims for purchasing or constructing said launch shall be presented to and allowed by the state board of examiners.

§ 4. The total cost of said launch shall not exceed the sum of two thousand six hundred dollars, of which sum one thousand one hundred dollars is now on hand, resulting from the sale of steam launch "Governor Stoneman," and said board of fish commissioners are hereby authorized and empowered to use said sum of one thousand one hundred dollars in the purchase or construction of said gasoline launch.

§ 5. The sum of one thousand five hundred dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, in addition to said sum of one thousand one hundred dollars, for the purpose of purchasing or constructing said launch, and the controller of state is hereby authorized to draw his warrant in favor of said board of fish commissioners for said sum of one thousand five hundred dollars, in addition to the sum of one thousand one hundred dollars already on hand, and the treasurer of state is hereby directed and authorized to pay the same.

§ 6. All acts or parts of acts in conflict with this act are hereby repealed.

§ 7. This act shall take effect immediately.

See full note at end of this title on **Fish and Game**.

FISH AND GAME—LAKE MERRITT.

To prevent the destruction of fish and game in, upon and around the waters of Lake Merritt or Peralta, in the county of Alameda.

(Stats. 1869-70, 325, ch. CCXXIV.)

§ 1. From and after the passage of this act, it shall be unlawful for any person to take, catch, kill, capture, or in any manner destroy, any fish in the waters of Lake Merritt or Peralta, in the county of Alameda, except by the use of a hook and line; but it shall be unlawful to use any set lines, night lines, or crawls in said lake.

§ 2. And be it further enacted, that from and after the passage of this act, it shall be unlawful for any person to take, kill or destroy, in any manner whatever, any grouse, any species of wild duck, crane, heron, swan, pelican, snipe, or any wild animal or game, of any kind or species whatever, upon, in or around Lake Merritt or Peralta, in the county of Alameda, and within one hundred rods from high-water mark upon the land around said lake.

§ 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of said county, or police judge of any city within said county, shall be punished by a fine of not exceeding five hundred dollars, and in default of payment of such fine, shall be imprisoned in the county jail of said county, or

within a city prison within said county, not more than six months nor less than one month.

§ 4. The fines collected under this act shall be paid into the county treasury, in all cases prosecuted before a justice of the peace, and into the city treasury in all cases of prosecution before a police judge of any city within the county.

§ 5. This act shall take effect and be in full force on and after its passage.

Continued in force.—See **KERR'S CYC. PEN. CODE**, § 19, and **KERR'S CYC. POL. CODE**, § 23.

FISH AND GAME—LICENSES.

To regulate the vocation of fishing, and provide therefrom revenue for the restoration and preservation of fish in the waters of the state of California.

(Stats. 1887, 233, ch. CLXXX.)

§ 1. Every person engaged in the vocation of fishing in the public waters of this state, who shall use a boat and net for the purpose of such fishing, must obtain a license before engaging in such vocation. The controller of state shall prepare suitable licenses, of the classes designated by the fish commissioners, which shall purport to license the holder of such license to fish in any of the public waters of this state, with nets and by boat, for the term of one year from the first day of April of one year to the first day of April of the year following. The licenses shall be numbered consecutively, beginning with number one, and contain blanks for the insertion of the name of the holder, the name of the county in which he resides, and the name or number of his boat. The controller shall sign all licenses and deliver the same to the fish commissioners, on demand, who shall be charged for the same by the controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the board of fish commissioners, and the president of the board of fish commissioners shall execute a bond to the people of the state of California, in the sum of two thousand (\$2,000) dollars for the faithful performance of the duties imposed upon him by this act. The number of the license must be displayed by the holder on each side of the stern of his boat, in length not less than four (4) inches, and in width to correspond with the length; and a failure to so display the number within five days after receipt of the license, or the fishing by the holder of a license by unlawful lines, nets, seines, bay-net modes or methods, in violation of the law for the preservation of fish and game, shall work a forfeiture of such license. The owner or user of each fishing-boat worked by less than three men, shall pay an annual license fee of five dollars; and the owner or user of each boat worked by three or more men, shall pay an annual license fee of two and one half (2½) dollars for each man so employed.

§ 2. Said license fees must be collected by the fish commissioners, or some one designated by them for that purpose; and each of the commissioners, and such persons designated by them for the purpose of collecting said license fees, is and are hereby empowered to arrest any person fishing, or using a boat and net for fishing, without a license, contrary to the provisions of section one of this act. The commissioners may reserve out of the proceeds of the collection of such license fifteen (15) per centum to pay for services for such collection.

§ 3. The money collected from such licenses, less the percentage deducted, shall be paid by the commissioners into the state treasury, and shall constitute a fund to be called the "Fish Commission Fund." Said fund shall be applicable to the payment of the expenses of propagating, protecting, restoring, and introducing fish in the public waters of the state, and to the payment of expenses incurred in the prosecution of offenders against the provisions of this act, and to the compensation to the commissioners for each day employed in the discharge of their duties, to be fixed by the state board of examiners, and all other necessary expenses.

§ 4. All acts and parts of acts, so far as they conflict with this act, are hereby repealed.

§ 5. This act shall take effect immediately.

FISH AND GAME—PITT RIVER.

To provide for removing obstructions in Pitt River, above the mouth of Hat Creek, so as to enable salmon to reach the spawning-grounds on the upper waters of said river and its tributaries, and making an appropriation therefor.

(Stats. 1901, 808, ch. CCLVIII.)

§ 1. The fish commissioners of this state are hereby authorized and directed that within six months after the passage of this act they shall advertise for proposals and let a contract or contracts for the removal of obstructions and making fishways in Pitt River, above the mouth of Hat Creek, so as to enable salmon to reach the spawning-grounds on the head waters of said river and its tributaries.

§ 2. Said advertisements shall be published once a week for four successive weeks in one or more newspapers published in the counties of Shasta, Lassen and Modoc, and shall briefly set forth the extent to which said obstructions are to be removed, the nature of the fishways to be opened, and designate a time for receiving said proposals.

§ 3. The contract or contracts shall be let to the lowest responsible bidder, and shall contain a stipulation that no money shall be paid or become due upon said contract or contracts until the work is completed and accepted by said commissioners. No contract or contracts shall be let which singly, or in the aggregate, will amount to more than three thousand dollars, including advertising and other necessary expenses.

§ 4. When the work is completed, approved, and accepted by the board of fish commissioners, they shall certify the amount due upon said contract or contracts, and the amount due for advertising and other necessary expenses incurred by them in carrying out the provisions of this act, to the state board of examiners, and, when approved by said board, the amount shall be paid out of the general fund in the state treasury.

§ 5. The sum of three thousand dollars is hereby appropriated out of any money in the general fund in the state treasury for the purpose of carrying out the provisions of this act; but no amount of the sum specified shall be available, or become payable, prior to January first, nineteen hundred and two.

§ 6. This act shall take effect and be in force from and after its passage.

See former Act 1880, 343, ch. CXCI.

FISH AND GAME—SALMON HATCHERY.

To authorize the board of fish commissioners of this state, to build and maintain a salmon hatchery, and providing ways and means therefor.

(Stats. 1885, 31, ch. XXVIII.)

§ 1. The board of fish commissioners of this state are hereby authorized and empowered to erect, construct, and maintain, upon the head waters of the Sacramento River, at a point to be determined upon by said board, a suitable hatchery for the propagation of salmon.

§ 2. All claims of persons for labor done and for materials furnished to said board, in pursuance of the authority herein obligated, shall first be presented to said board, and shall be by them forwarded to the state board of examiners, and, after allowance by them, shall be paid out of the funds hereinafter provided.

§ 3. The sum of ten thousand dollars is hereby appropriated out of the general fund not otherwise appropriated, and shall be used in payment of said claims.

§ 4. This act shall take effect on and after its passage.

FISH AND GAME—SISSON.

To authorize the board of fish commissioners of this state to purchase the land on which the state fish hatcheries at Sisson are now situated, and appropriating money therefor.

(Stats. 1891, 258, ch. CLXXV.)

§ 1. The board of fish commissioners of this state are hereby authorized and empowered to purchase, out of the fund for the support and maintenance of the state hatcheries, the land on which the state fish hatcheries at Sisson are now situated, at a sum not to exceed five hundred dollars.

§ 2. The sum of five hundred dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose mentioned in the preceding section.

§ 3. This act shall take effect from and after its passage.

See next succeeding act.

FISH AND GAME—SISSON.

To provide for purchasing land for the state fish hatchery at Sisson, in Siskiyou County, and for making certain improvements and repairs at said hatchery, and making an appropriation therefor.

(Stats. 1903, 434, ch. CCCXII.)

§ 1. The sum of ten thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to be paid to the state board of fish commissioners as follows: For purchasing additional land for change and improvements about the fish hatchery at Sisson; for constructing a duplicate flume system, additional ponds and other changes and improvements; and for constructing a dwelling-house for the superintendent of said Sisson hatchery.

§ 2. The controller of the state is hereby authorized and directed to draw his warrant for the said amount as the work shall progress, in favor of said

board of fish commissioners, upon their requisition for the same, and the treasurer is hereby directed to pay such warrants.

§ 3. This act shall take effect July first, nineteen hundred and three.

FISH AND GAME—TRIALS.

Providing for the payment of the costs and expenses of all trials and proceedings against any person charged with the violation of the laws of this state for the preservation, protection, or restoration of fish.

(Stats. 1903, 20, ch. XVII.)

§ 1. The costs and expenses of all trials and proceedings which shall hereafter be had in any county of this state against any person charged with having violated any of the provisions of any law of this state for the preservation, protection, or restoration of fish, shall be borne and paid by the state. [Amendment, Stats. 1903, 20.]

§ 2. Any claim against the state for the cost and expenses named in this act shall be presented to the state board of fish commissioners, duly verified, and after approval and allowance by said board, shall be acted upon by the state board of examiners, and paid out of the fish commission fund. [Amendment, 1903, 20.]

§ 3. [Simply provided time of going into effect.]

§ 4. All acts and parts of acts in conflict with this act are hereby repealed. [Amendment, Stats. 1903, 20.]

§ 5. This act shall take effect immediately. [Amendment, Stats. 1903, 20.]

The foregoing act entirely supersedes the original Act of 1887, 5.

See *tits. Blue Cranes; Seagulls; Mocking Birds.*

FISH AND GAME—WARDEN.

To create the office of game warden, and to prescribe the powers, duties, and salary of such office.

(Stats. 1895, 169, ch. CLXV; amended Stats. 1905, 319, ch. CCCV.)

§ 1. The board of supervisors of each and every county in the state may, in its discretion, at their first meeting held in April, eighteen hundred and ninety-five, and at their first meeting held in January, eighteen hundred and ninety-seven, and in January every two years thereafter, appoint a suitable person to serve for the period of two years from the date of his appointment as fish and game warden of the county, which office is hereby created; provided, that the person so appointed in April, eighteen hundred and ninety-five, shall hold office only until January, eighteen hundred and ninety-seven, and until his successor is appointed and qualifies.

§ 2. Said fish and game warden shall enforce the state laws, and all county and municipal ordinances relating to the protection of fish and game, and he shall be vested with all the powers of a peace officer to make arrests for the violation of such laws and ordinances.

§ 3. The salary of said fish and game warden is hereby fixed, in accordance with the classification of counties, as follows:

§ 4. For counties of the second class, one hundred and twenty-five dollars per month; for counties of the first and third classes, one hundred dollars per month; for counties of the fourth, fifth and sixth classes, the sum of seventy-five dollars per month; for counties of the seventh, eighth, ninth and tenth classes, the sum of sixty dollars per month; and for all other classes from the eleventh to the fifty-third, inclusive, the sum of fifty dollars per month. In addition thereto said warden shall be allowed a sum not to exceed twenty-five dollars per month for expenses incurred by him in the performance of his duties. Said salary and expenses incurred must be paid monthly from the county treasury. Said fish and game warden shall, before entering upon the discharge of his duties, execute a bond with sureties in such sum as may be required by the board of supervisors, for the faithful and proper discharge of his duties as such fish and game warden. Said warden shall report quarterly to the board of supervisors of his county, giving a detailed statement of all arrests made, convictions had, fines collected, and generally in regard to the management of his office. Such officers may be removed by the board of supervisors for intemperance, neglect of duty, or other good and sufficient reasons. [Amendment, Stats. 1905, 319.]

§ 5. This act shall take effect and be in force from and after its passage.

FISH AND GAME.—There are various enactments affecting particular localities or for special purposes which are probably superseded by the more recent general provisions of the Penal Code: Siskiyou County, Stats. 1865-6, 857; Yolo, 1871-2, 411; Napa, 1871-2, 441, and 1871-2, 550; Butte, 1871-2, 138; Nevada, 1873-4, 80; Plumas and Sierra, 1873-4, 154, and 1875-6, 725; deer on Mount Diablo, 1877-8, 599 (expired); Alameda, Lake Chabot or San Leandro Creek, 1877-8, 598; use of nets, etc., San Antonio Creek, Alameda County, 1875-6, 362; as to Bolinas Bay, Marin County, 1865-6, 637; as to Kings River and flumes or ditches leading therefrom, 1877-8, 601.

As to having in possession during the prohibited period any game, etc., see **KERR'S CYC. PEN. CODE**, § 626, and cases there noted.

GAME AND FISH LAWS.

As affecting interstate commerce.—13 L. R. A. 804; briefs in 29 L. R. A. 715 and 33 L. R. A. 696.

As to sale of game and fish imported.—33 L. R. A. 696.

Innocent violation of.—Brief in 29 L. R. A. 715.

Constitutionality of statute authorizing summary forfeiture of property used in violation of.—Brief in 65 L. R. A. 610.

Construction of.—Brief in 36 L. R. A. 765.

Cruel and unusual punishment for violation of.—35 L. R. A. 572.

Of various states.—8 L. R. A. 448.

Power of state as to.—Brief in 40 L. R. A. 152.

Prohibiting guiding in fishing or forest hunting without registration.—50 L. R. A. 544.

Right of state to regulate taking of fish and game.—Brief in 58 L. R. A. 95.

Fish Laws.

Power of state to control and regulate fisheries.—53 Am. St. Rep. 293.

Power of state to regulate taking of fish in tide-water.—23 Am. St. Rep. 837.

Property in fish, arises when.—53 Am. St. Rep. 187.

Game Laws.

Applicable to game purchased on Indian reservation.—40 L. R. A. 759.

Carriers not in provision as to penalty.—13 L. R. A. 33.

Constitutionality of laws protecting game.—Note 42 Am. St. Rep. 138.

Contract for cold storage of game during close season.—40 L. R. A. 151.

Deer in large park; right of owner to kill in close time.—35 L. R. A. 279.

Following moose till snowbound and capturing during close time.—8 L. R. A. 448.

Game laws as affecting interstate commerce.—Brief in 53 L. R. A. 134.

Game laws; game as property of the state; validity of statute authorizing summary seizure and forfeiture to state of all guns, etc., in actual use in violation of law.—Brief in 65 L. R. A. 611.

Individual property in game; liability for unlawful transportation of.—Brief in 9 L. R. A. 183.

Intent in killing game birds taken out of state.—13 L. R. A. 804.

Liability of carrier for transporting game.—29 L. R. A. 714.

Taking carcasses from carrier during interstate transportation.—13 L. R. A. 33.

Possession during closed season; prior acquisition.—Brief in 52 L. R. A. 803.

Power of state to impose restriction on right to kill.—Brief in 51 L. R. A. 405.

Prohibited possession of game killed in other state.—36 L. R. A. 765.

Prohibiting possession of quail during closed season.—51 L. R. A. 404.

Prohibiting transportation of game killed.—9 L. R. A. 138.

Protecting game by either general or special laws.—33 L. R. A. 114.

Regulations for preserving game.—40 L. R. A. 151.

Restriction of consignment of game to market by common carrier.—32 L. R. A. 131.

State act prohibiting killing of birds to be taken from state.—13 L. R. A. 804.

Third person liberating animal captured during close time.—8 L. R. A. 448.

FLAG—OF THE UNITED STATES.

To prohibit the desecration of the flag of the United States and to provide a punishment therefor.

(Stats. 1899, 46, ch. XLIII.)

§ 1. Any person who shall desecrate the flag of the United States, by printing thereon or attaching thereto any advertisement of any nature whatsoever, shall be deemed guilty of a misdemeanor.

DESECRATING THE FLAG does not include use thereof as an emblem in business or a trade-mark, and a statute prohibiting such use was held unconstitutional by the supreme court of Illinois in *Ruhrstrat vs. People*, 185 Ill. 133, 76 Am. St. Rep. 30, 57 N. E. Rep. 41, 49 L. R. A. 181.

This decision is without direct precedent, and is based solely upon considerations applicable only to state law, and not to federal law. A federal statute placing such restric-

tion upon the use of the national emblem would undoubtedly be within the purview of federal authority.

It may be interesting to note that there is an unreported decision of the Illinois court that a statute requiring the national emblem to be floated over every school-house during school hours is unconstitutional. The decision is placed on the ground that the statute transcends the police power of the state.—See 30 Am. L. Rev. 746.

FLOWER—STATE.

See tit. State Flower.

FLUMES.

See tit. Water Ditches and Flumes.

FOLSOM.

See tit. State Prisons.

FOODS AND DRUGS.

See tits. Adulteration; Health; Honey; State Analyst.

As to adulterated foods and drugs, and civil liability for selling same, see exhaustive note **KERR'S CYC. CIVIL CODE** appended to § 43.

FORECLOSURE.

See tit. Attorney Fees.

FOREIGN MINER'S LICENSE.

The general legislation on this subject found at page 447, Stats. 1861, is omitted from this publication. It is assumed that these provisions were repealed by the revenue and taxation system of the Political Code. They are not continued in force by section 19 of that code. See note at page 647, of volume by code commissioners, entitled "Statutes Continued in Force" (held by supreme court not to be authoritative,

although the note referred to is instructive). The collection and application of this tax were given to the respective counties by Stats. 1867-8, 173. It will be readily suggested that the subject is omitted from the County Government Act, but see Stats. 1880, 39, held unconstitutional in the superior court of Los Angeles in the case of *People vs. Quong On Long*, 6 Pac. Coast Law Journal 116.

FOREST RESERVATIONS.

Giving the consent of the state of California to the reservation of certain lands by Congress.

(Stats. 1887, 107, ch. CVI.)

§ 1. The state of California hereby consents to the reservations created by the act of Congress, approved September twenty-fifth, eighteen hundred and ninety, entitled "An act to set apart a certain tract of land in the state of California as a public park," and the act of Congress, approved October first, eighteen hundred and ninety, entitled "An act to set apart certain tracts of land in the state of California as forest reservations," and no further sales of school lands within the exterior boundaries of the tracts so reserved, as aforesaid, shall be made by the state.

§ 2. This act shall take effect from and after its passage.

See tits. **Big Tree Groves; Forestry—State Board.**

FORESTRY—STATE BOARD.

To provide for the regulation of fires on, and the protection and management of, public and private forest lands within the state of California, creating a state board of forestry and certain officers subordinate to said board, prescribing the duties of such officers, creating a forestry fund, and appropriating the moneys in said fund, and defining and providing for the punishment of certain offenses for violations of the provisions of this act, and making an appropriation therefor.

(Stats. 1905, 235, ch. CCLXIV.)

§ 1. *State board of forestry.*—There shall be a state board of forestry, consisting of the governor, secretary of state, attorney-general and state forester, which shall supervise all matters of state forest policy and management and convene upon the call of the governor or of its secretary.

§ 2. *State forester and his duties.*—There shall be a state forester, who shall be a civil executive officer, and who shall be a technically trained forester, appointed by the governor to hold office at the pleasure of the appointing power; and whether any candidate for the position is a technically trained forester shall be determined by certificate from the secretary of the United States department of agriculture, or from the department of forestry of the state university after such department is established. He shall receive a salary of twenty-four hundred dollars per annum, and shall be authorized and empowered to appoint two assistant foresters, whose salaries shall not exceed twelve hundred dollars each per annum. He shall maintain headquarters at the state capitol in an office provided by the secretary of state, and shall be allowed necessary office and contingent expenses. He and his assistants shall be paid reasonable traveling and field expenses which may be incurred in the necessary performance of their official duties. He shall act as secretary of the state board of forestry. He shall, under the supervision of the state board of forestry, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all fire wardens in the state, and direct and aid them in their duties; direct the protection and improvement of state parks and forests; collect data relative to forest destruc-

tion and conditions; take such action as is authorized by law to prevent and extinguish forest, brush, and grass fires; enforce all laws pertaining to forest and brush-covered land, and prosecute for any violation of such laws; co-operate with landowners, as described in section four of this act; and publish from time to time such information of forestry as he may deem wise. He shall prepare annually a report to the governor on the progress and condition of state forest work, and recommend therein plans for improving the state system of forest protection, management and replacement.

§ 3. *Supervision and care of state parks.*—The California Redwood Park and the Mount Hamilton Tract, together with all moneys heretofore or hereafter appropriated for the purchase of land for or care of said parks, tracts and stations, shall be in charge of the state board of forestry, said board to take the place of and forthwith shall have all the powers and duties now possessed in accordance with law by persons or commissions with regard to the state parks, tracts of land, and forest stations mentioned in this act, and also any forest or brush land which may hereafter become state property, or be placed definitely in the care of the state; and it is hereby further enacted that, if the government of the United States or any individual or corporation shall, at any time, donate or intrust to the state of California, for state park or state forest reserve purposes, any tract or tracts of wholly or partially wooded land, such tract or tracts of land shall be administered at the expense of the state, as provided by law.

§ 4. *Co-operative work.*—The state forester shall, upon request and whenever he deems it essential to the best interests of the people and the state, co-operate with counties, towns, corporations and individuals in preparing plans for the protection, management and replacement of trees, wood lots and timber tracts, on consideration and under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans.

§ 5. *Publication of laws and notices.*—The state forester shall prepare and print for public distribution, an abstract of all the forest laws of California, together with such rules and regulations in accord therewith as he may deem necessary, and shall annually print and distribute a list of all fire wardens with their addresses, all such matter to be published with the approval of the state board of forestry. He shall also furnish notices, printed in large letters on cloth, calling attention to the danger from forest fires and to forest fire and trespass laws and their penalties. Such notices shall be posted by the fire wardens in conspicuous places along every highway in brush and forest covered country, at frequent intervals along streams and lakes frequented by tourists, hunters or fishermen, at established camping sites, and in every post-office in the forested region.

§ 6. *Fire districts.*—The state forester shall divide the state into such number of fire districts as shall be deemed by him most necessary to the efficiency of his work; and, furthermore, any county, or combination of less than four counties, shall be made a separate fire district, upon request of the county board or board of supervisors, in which case such special fire district shall pay the cost of maintaining its district fire warden.

§ 7. *Duties of assistant foresters.*—The duties of the assistant foresters shall be to devote their entire time to state forest interests according to rules and direc-

tions to be determined by the state forester, with the approval of the state board of forestry. They shall take prompt measures to prevent and extinguish forest fires; keep a record of the cause, extent and damage of all forest fires in their respective districts, and perform such other duties as the state forester may direct.

§ 8. *Voluntary fire wardens and their duties.*—The state forester shall appoint, in such number and localities as he deems wise, public-spirited citizens to act as voluntary fire wardens, who may receive payment for their services from the counties or from private sources. They shall promptly report all fires and take immediate and active steps toward their extinguishment, report any violation of the forest laws, assist in apprehending and convicting offenders, and perform such other duties as the state forester may direct. The supervisors and rangers on the federal forest reserve within this state, whenever they formally accept the duties and responsibilities of fire wardens, may be appointed as voluntary fire wardens, and shall have all the powers given to fire wardens by this act.

§ 9. *Powers and requirements of fire wardens.*—The state forester and all fire wardens shall have the powers of peace officers to make arrests without warrant, for violations of any state or federal forest laws, and no fire warden shall be liable to civil action for trespass committed in the discharge of his duties. Any fire warden who has information which would show, with reasonable certainty that any person had violated any provision of such forest laws, shall immediately take action against the offender, either by using his own powers as a peace officer or by making complaint before the proper magistrate, or by information to the proper district attorney, and shall obtain all possible evidence pertaining thereto. Failure on the part of any paid fire warden to comply with the duties prescribed by this act shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than two hundred and fifty dollars, or imprisonment for not less than ten days nor more than three months, or both such fine and imprisonment, and the state forester is hereby authorized to investigate and prosecute such violations.

§ 10. *Assistance of citizens in fighting fires.*—All fire wardens shall have authority to call upon able-bodied citizens between the ages of sixteen and fifty years, for assistance in putting out fires, and any such person who refuses to obey such summons, unless prevented by good and sufficient reasons, is guilty of a misdemeanor, and must be fined in a sum not less than fifteen dollars, nor more than fifty dollars, or imprisonment in the county jail of the county in which such conviction shall be had, not less than ten days, nor more than thirty days, or both such fine and imprisonment; provided that no citizen shall be called upon to fight fire a total of more than five days in any one year.

§ 11. *Fire patrol.*—In times and localities of particular fire danger the state forester may maintain a fire patrol through the fire wardens, at such places in brush or forest land as the public interest may require, the expense of such patrol to be paid by the county in which such patrol is maintained; and, furthermore, he may, upon written request by counties, corporations or individuals, maintain a fire patrol on their forest lands, provided, that the expense of said patrol be paid by the party or parties requesting same.

§ 12. *District attorneys to prosecute vigorously.*—Whenever an arrest shall have been made for violation of any provision of this act, or whenever any information of such violation shall have been lodged with him, the district attorney of the county in which the criminal act was committed must prosecute the offender or offenders with all diligence and energy. If any district attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars in the discretion of the court. Action against the district attorney shall be brought by the attorney-general in the name of the people of the state on the relation of the state forester. The penalties of this section shall apply to any magistrate, with proper authority, who refuses or neglects to cause the arrest and prosecution of any person or persons when complaint, under oath, of violation of any terms of this act has been lodged with him.

§ 13. *Destruction of warning notices.*—Any person who shall destroy, deface, remove or disfigure any sign, poster or warning notice posted under the provisions of this act shall be guilty of a misdemeanor and punishable, upon conviction, by a fine of not less than fifteen dollars nor more than one hundred dollars, or imprisonment in the county jail for a period of not less than ten days nor more than three months, or both such fine and imprisonment.

§ 14. *Wilfully, maliciously and negligently setting forest fires.*—Every person, who wilfully, maliciously or negligently sets on fire or causes or procures to be set on fire any woods, brush, prairies, grass, grain or stubble on any lands not his own, or allows the fire to escape from his own land, whereby any property of another is injured or destroyed, or accidentally sets any such fire or allows it to escape from his control without extinguishing it or using every effort to extinguish it, shall be guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment for not less than thirty days nor more than one year, or both such fine and imprisonment. Setting such fires or allowing them to escape shall be prima facie proof of wilfulness, malice or neglect under this section, provided, that nothing herein contained shall apply to a person who, in good faith, sets a back-fire to check a fire already burning.

§ 15. *Extinguishment of camp-fires.*—Every person who, upon departing from a camp or camping-place, leaves fire burning or unextinguished, or who after building such fire allows it to spread, shall be guilty of a misdemeanor and punishable by a fine of not less than fifty dollars nor more than five hundred dollars, with costs of suit and collection, one half of such fine or such a portion thereof as shall not exceed fifty dollars, to be paid to the person securing the arrest and conviction of such offender, and if the defendant refuses or neglects to pay the fine and costs imposed, he shall be confined in the county jail of the county in which conviction shall be had, for a period not to exceed one day for every two dollars of the fine imposed, or may be subject to both such fine and imprisonment.

§ 16. *Restriction of use of fire in dry season.*—It shall be unlawful during what is locally known as the "dry season," this to be considered as the period between May fifteenth and the first soaking rains of autumn or winter, for any

person or persons to burn brush, stumps, logs, fallen timber, fallows, grass or forest-covered land, or blast wood with dynamite, powder or other explosives, or set off fireworks of any kind in forest or brush-covered land, either their own or the property of another, without written permission of and under the direction or supervision of a fire warden in that district; these restrictions not to apply to the ordinary use of fire or blasts in logging redwood, nor in cases where back-fires are set in good faith to stop an existing fire. Violation of these provisions shall be a misdemeanor, punishable, upon conviction, by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment not less than thirty days nor more than one year, or both such fine and imprisonment.

§ 17. *Engines in forest land.*—Logging locomotives, donkey or threshing engines, and other engines and boilers operated in, through or near forests, brush or grass land, which do not burn oil as fuel, shall be provided with appliances to prevent the escape of fire and sparks from the smokestacks thereof, and with devices to prevent the escape of fire from ash-pans and fire-boxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars, and any person violating any provision of this section shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars, for every such violation, or imprisonment for not less than thirty days nor more than three months, or both such fine and imprisonment.

§ 18. *Civil liability for forest fires.*—In addition to the penalties provided in sections fourteen, fifteen, sixteen and seventeen of this act, the United States, state, county, or private owners, whose property is injured or destroyed by such fires, may recover, in a civil action, double the amount of damages suffered if the fires occurred through wilfulness, malice or negligence; but if such fires were caused or escaped accidentally or unavoidably, civil action shall lie only for the actual damage sustained as determined by the value of the property injured or destroyed, and the detriment to the land and vegetation thereof. The presumption of wilfulness, malice or neglect shall be overcome, provided that the precautions set forth in section seventeen are observed; or, provided, under section sixteen, fires are set during the "dry season" with written permission of and under the direction of the district fire warden. Persons or corporations causing fires by violations of sections fourteen, fifteen, sixteen and seventeen of this act shall be liable to the state or county in action for debt, to the full amount of all expenses incurred by the state or county in fighting such fires.

§ 19. *Clearing along county roads and land after lumbering.*—Counties, along the county roads, in forest or brush land, shall, when so directed by the state forester, and in a manner and to an extent prescribed by him, cut and remove all brush, grass and inflammable material from their rights of way. If such clearing is not done within a reasonable time after notice, said time to be fixed by the state forester, the state forester shall have it done and the county shall be liable to the state in an action for debt to the amount of the expense thus incurred, and in addition thereto for the expense of any fire patrol rendered necessary by such delay. It is provided, further, that all lumber companies, corporations, or individuals shall, when so instructed by the state board of forestry, and at a time and in a manner prescribed by said board, carefully burn their

slashings, by which is meant the tops, limbs, and general debris left after lumbering.

§ 20. *Disposals of moneys received as penalties.*—All moneys received as penalties for violations of the provisions of this act, less the cost of collection, and not otherwise provided for, shall be paid into the state treasury to the credit of the forestry fund, which fund is hereby created, and the moneys therein are hereby appropriated for purposes of forest protection, management and replacement under direction of the state board of forestry.

§ 21: *Moneys for forest purposes.*—County boards of supervisors may appropriate money for purposes of forest protection, improvement and management.

§ 22. *Payment of expenses under this act.*—There is hereby appropriated for the fifty-seventh and fifty-eighth fiscal years, the sum of seventeen thousand six hundred dollars (\$17,600.00) for carrying out the provisions of this act, and for the payment of all salaries and expenses herein provided for.

§ 23. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

As to **FIRES**, see tit. **Fire**, ante.

A **STATE BOARD OF FORESTRY** was created by Act of 1885 (Stats. p. 10). By Act of 1887 (Stats. p. 46) the members of the board and assistants were given powers of peace officers, and certain moneys were

appropriated. By Act of 1893 (Stats. 229, ch. CLXXXVII) those acts are repealed and the property accumulated was turned over to the agricultural department of the University of California. See post, tit. **University**.

FORT JONES—TOWN OF.

See tit. **Municipal Corporations**.

FORT ROSS.

See tit. **Historic Property**.

FRANCHISES—BY SUPERVISORS.

To limit the time [relative to elections] within which franchises or privileges for the construction, extension, or operation of street railroads may be granted by boards of supervisors of the several counties, and cities and counties, of this state.

(Stats. 1893, 29, ch. XVII.)

§ 1. It shall be unlawful for the board of supervisors of any county or city and county, within the ninety days next preceeding the date of holding a general election, and within the seventy days next immediately following, including the day of holding such general election, to authorize or pass any ordinance, order, or resolution granting to any person or persons, or association of persons, or corporation whatsoever, any privilege or franchise for the construction, extension, or operation of any street railroad, or extension of time for the construction or operation of any street railroad, over or upon any or part of any street, road, highways, squares, or park within the county or city and county.

§ 2. Any franchise or privilege granted, or attempted to be granted, in violation of, or contrary to, the provisions of this act shall be absolutely void and of no effect.

§ 3. All acts or parts of acts in conflict with this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage.

Except as to county boards of supervisors, it may be questioned if the foregoing is not superseded by Stats. 1897, 135, ch. CVII; 1901, 265, ch. CIII, and 1903, 90, ch.

LXXXII, although the limit of time prescribed by this act is not necessarily in conflict with the later acts, which make no mention of a period of time.

FRANCHISES—COUNTY AND MUNICIPAL.

Providing for the sale of street railroad and other franchises in counties and municipalities, and providing conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts.

(Stats. 1905, 777, ch. DLXXVIII.)

§ 1. Every franchise or privilege to erect or lay telegraph or telephone wires, to construct or operate street or interurban railroads upon any public street or highway, to lay gas pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat and power along or upon any public street or highway, or to exercise any other privilege whatever hereafter proposed to be granted by boards of supervisors, boards of trustees, or common councils, or other governing or legislative bodies of any county, city and county, city or town within this state, except steam railroads and except telegraph or telephone lines doing an interstate business, and renewals of franchises for piers, chutes or wharves, shall be granted upon the conditions in this act provided, and not otherwise.

§ 2. An applicant for any franchise or privilege above mentioned shall file with the governing or legislative body of the county or municipality an application, and thereupon said governing body shall, in its discretion, advertise the fact of said application, together with a statement that it is proposed to grant the same, in one or more newspapers of the county, city and county, city or town wherein the said franchise or privilege is to be exercised. Said advertisement must state that bids will be received for such franchise, and that it will be awarded to the highest bidder, and the same must be published in such newspaper once a day for ten successive days, if it be a daily newspaper, and if there be no daily newspaper published in such county, city and county, city or town, then it shall be published in a weekly newspaper once a week for four successive weeks, and in either case the full publication must be completed not less than twenty nor more than thirty days before any further action can be taken thereon.

§ 3. The publication must state the character of the franchise or privilege proposed to be granted, the term for which it is granted, and, if it be a street railroad, the route to be traversed; that sealed bids therefor will be received up to a certain hour and day named therein, and that the successful bidder and his assigns must, during the life of said franchise, pay to the county or municipality two per centum (2%) of the gross annual receipts of the person, partnership or corporation to whom the franchise is awarded, arising from its use, operation or possession. No percentage shall be paid for the first five (5) years succeeding the date of the franchise, but thereafter such percentage shall be payable annually; and in the event said payment is not made, said franchise shall be forfeited; provided further, that if the franchise be a renewal of a right already in existence, the payment of said percentage of gross receipts shall begin at once.

§ 4. In case the franchise granted shall be an extension of an existing system of street railroad, then the gross receipts shall be estimated to be one half of the proportion of the total gross receipts of said system which the mileage of such extension bears to the total mileage of the whole system, and said estimate shall be conclusive as to the amount of the gross receipts of said extension.

§ 5. Said advertisement shall also contain a statement that the said franchise will be struck off, sold and awarded to the person, firm or corporation who shall make the highest cash bid therefor; provided, only, that at the time of the opening of said bids any responsible person, firm or corporation present or represented may bid for said franchise or privilege a sum not less than ten per centum above the highest sealed bid therefor, and said bid so made may be raised not less than ten per centum by any other responsible bidder, and said bidding may so continue until finally said franchise shall be struck off, sold, and awarded by said governing body to the highest bidder therefor in gold coin of the United States. Each sealed bid shall be accompanied with cash or a certified check, payable to the treasurer of such county or municipality, for the full amount of said bid, and no sealed bid shall be considered unless said cash or check is inclosed therewith and the successful bidder shall deposit, at least ten per centum of the amount of his bid with the clerk of such county or municipality before the franchise shall be struck off to him. And if he shall fail to make such deposit immediately, then and in that case, his bid shall not be received, and shall be considered as void, and the said franchise shall then and there be again offered for sale to the bidder who shall make the highest cash bid therefor, subject to the same conditions as to deposit, as above mentioned. Said procedure shall be had until said franchise is struck off, sold, and awarded to a bidder who shall make the necessary deposit of at least ten per centum of the amount of his bid therefor, as herein provided. Said successful bidder shall deposit with the clerk of such county or municipality, within twenty-four hours of the acceptance of his bid, the remaining ninety per centum of the amount thereof, and in case he or it shall fail to do so, then the said deposit theretofore made, shall be forfeited, and the said award of said franchise shall be void, and the said franchise shall then and there, by said governing body, be again offered for sale to the highest bidder therefor, in the same manner, and under the same restriction as hereinbefore provided, and in case said bidder shall fail to deposit with the clerk of such county or municipality, the remaining ninety per centum of his bid, within twenty-four hours after its acceptance, the award to him of said franchise shall be set aside, and the deposit theretofore made by him shall be forfeited, and no further proceedings for a sale of said franchise shall be had unless the same shall be readvertised and again offered for sale, in the manner hereinbefore provided.

§ 6. Work to erect or lay telegraph or telephone wires, to construct street railroads, to lay gas pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat or power, along or upon any public street or highway, or to exercise any privilege whatever, a franchise for which shall have been granted in accordance with the terms of this act, shall be commenced in good faith within not more than four months from the granting of any such franchise, and if not so commenced within said time said franchise so granted shall be declared forfeited, and shall be completed within not more than

three years thereafter, and if not so completed within said time said franchise so granted shall be forfeited; provided, that for good cause shown the governing or legislative body may by resolution extend the time for completion thereof, not exceeding three months.

§ 7. The successful bidder for any franchise or privilege struck off, sold, and awarded under this act shall file a bond running to said county, city and county, or city or town, with, at least, two good and sufficient sureties, to be approved by such governing body, in a penal sum by it to be prescribed, and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfil and perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages, and shall be recoverable from the principal and sureties upon said bond. Said bond shall be filed with such governing body within five days after such franchise is awarded, and upon the filing and approval of such bond, the said franchise shall, by said governing or legislative body, be granted by ordinance to the person, firm or corporation to whom it has been struck off, sold, or awarded, and in case that said bond shall not be so filed, the award of such franchise shall be set aside, and any money paid therefor shall be forfeited, and said franchise shall, in the discretion of said governing or legislative body, be readvertised, and again offered for sale in the same manner, and under the same restrictions, as hereinbefore provided.

§ 8. It shall be the duty of the attorney-general, upon the complaint of any county or municipality, or, in his discretion, upon the complaint of any taxpayer, to sue for the forfeiture of any franchise granted under the terms of this act, for the non-compliance with any condition thereof.

§ 9. No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this act, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale, which shall in any wise favor one person, firm or corporation, as against another, in bidding for the purchase thereof.

§ 10. Any member of any common council or other governing or legislative body of any county, city and county, city or town of this state, who, by his vote, violates or attempts to violate the provisions of this act, or any of them, shall be guilty of a misdemeanor, and may be punished therefor, as provided by law, and may be deprived of his office by the decree of a court of competent jurisdiction, after trial and conviction.

§ 11. All acts or parts of acts in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall be construed as repealing, or amending the following acts, to wit: "An act relating to the granting by the counties and municipalities of franchise for the construction of paths and roads for the use of bicycles and other horseless vehicles," approved March twenty-seventh, eighteen hundred and ninety-seven; "An act to authorize cities and towns to grant franchises for the construction and maintenance of railroads beyond the limits of such cities or towns leading to public parks owned thereby,"

being chapter forty of the laws of eighteen hundred and ninety-seven of the state of California.

[§ 12.] This act shall take effect immediately.

It is assumed that § 11 of this statute repeals Stats. 1901, 265, ch. CIII, and amendatory Stats. 1903, 90, ch. LXXXII. Stats. 1901, 265, repealed Stats. 1893, 288, as amended by Stats. 1897, 176.

Under the earlier statutes, see *People ex rel. San Francisco & S. J. R. Co. vs. Craycroft*, 111 Cal. 544, 546, 44 Pac. Rep. 463; *Thompson vs. Board of Supervisors*, 111 Cal. 553, 555, 44 Pac. Rep. 230; *Russ & Sons Co. vs. Crichton*, 117 Cal. 695, 700, 49 Pac. Rep.

1043; *Horton vs. City of Los Angeles*, 119 Cal. 602, 51 Pac. Rep. 956; *People ex rel. Dean vs. Board of Supervisors*, 122 Cal. 421, 422, 55 Pac. Rep. 131; *Railroad Comm'rs vs. Market St. R. Co.*, 132 Cal. 677, 680, 64 Pac. Rep. 1065; *Pool vs. Simmons*, 134 Cal. 621, 622, 66 Pac. Rep. 872.

Another statute (1897, 135, ch. CVII) upon this subject was held unconstitutional in *Pereria vs. Wallace*, 129 Cal. 397, 62 Pac. Rep. 61.

FRANCHISES—BICYCLES, ETC.

Relating to the granting by counties and municipalities of franchises for the construction of paths and roads for the use of bicycles and other horseless vehicles.

(Stats. 1897, 191, ch. CXXX.)

This statute has been brought into the Civil Code by Stats. 1905, 578, ch. CDXXVII. See **KERR'S CYC. CIV. CODE**, § 524.

FOR ROADS BEYOND CITY LIMITS, see next following statute, and see tits. **County Government**; **Municipal Corporations**.

FRANCHISES—ROADS BEYOND CITY.

To authorize cities and towns to grant franchises for the construction and maintenance of railroads beyonds the limits of such cities or towns leading to public parks owned thereby.

(Stats. 1897, 46, ch. L.)

§ 1. It shall be lawful for the council, trustees, or other governing body of any city or town owning public parks situated outside of said city or town, to grant franchises for the building and operation of railroads from any point in, or at the exterior boundary of such city or town, to, in, or through such park, in the same manner and to the same extent as it now has power to grant the same for street railroads within the limits of such city or town; provided, that in addition to all other conditions, it shall be made a condition of such franchise that the fare of passengers on such road or roads shall never exceed five cents for a single trip.

§ 2. All railroads, except as otherwise provided in this act, authorized by this act to be so chartered shall be governed by the provisions of part four, title four, of the Civil Code of California, concerning street railroads and corporations, so far as the same shall be applicable thereto, and of all acts amendatory thereof. Also by the provisions of "An act providing for the sale of railroad and other franchises in municipalities and relative to the granting of franchises," approved March twenty-third, eighteen hundred and ninety-three.

§ 3. This act shall take effect immediately.

FREEHOLDER CHARTERS.

See tit. **Municipal Corporations**.

FREEHOLDER ELECTIONS.

See tit. Municipal Corporations.

FRESNO—CITY OF.

See tit. Municipal Corporations.

FRESNO COUNTY—JUDGES.

To facilitate the disposition of business in the superior court of Fresno County by the appointment and election of a third judge of said court.

(Stats. 1893, 125, ch. CIX.)

§ 1. The number of judges of the superior court of the county of Fresno is hereby increased from two to three, subject to the right of the legislature to repeal this act, as hereinafter provided.

§ 2. Within ten days after the passage of this act, the governor shall appoint one additional judge of the superior court of the county of Fresno, state of California, who shall hold office until the first Monday after the first day of January, A. D. eighteen hundred and ninety-five. At the next general election a judge of the superior court of said county of Fresno shall be elected in said county to succeed the judge so appointed, and the judge so elected shall hold such office for the term prescribed by the constitution and by law, subject to the right of the legislature of said state, hereby reserved, to abolish the office of said third judge whenever, in the judgment of said legislature, the public interest no longer requires it.

§ 3. The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner, as the salary of the other judges of said court in said county, as now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

See next following statute.

FRESNO COUNTY—JUDGES.

To increase the number of judges of the superior court of the county of Fresno, state of California, and for the appointment of an additional judge.

(Stats. 1887, 57, ch. XLVIII.)

§ 1. The number of the judges of the superior court of the county of Fresno, state of California, is hereby increased from one to two.

§ 2. Within ten days after the passage of this act, the governor shall appoint one additional judge of the superior court of the county of Fresno, state of California, who shall hold office until the first Monday after the first day of January, A. D. eighteen hundred and eighty-nine. At the next general election, one judge of the superior court of said county shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said additional judge shall be the same in amount, and

paid at the same time and in the same manner, as the salary of the other judge of the superior court of said county now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

See next following statute and note.

FRESNO COUNTY—REDUCTION OF JUDGES.

To reduce the number of judges of the superior court of the county of Fresno from three to two.

(Stats. 1895, 156, ch. CXLVIII.)

§ 1. The number of judges of the superior court of the county of Fresno is hereby reduced from three to two.

§ 2. This act shall take effect at the expiration of the term of the judge of said court whose term first expires, and in case a vacancy occur in any term prior to the first Monday after the first day of January, eighteen hundred and ninety-seven, this act shall take effect immediately.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Church vs. Colgan, 117 Cal. 685, 686, 50 Pac. Rep. 12.

~~The~~ additional judge had been appointed

for this county by Stats. 1893, 125, ch. CIX, ante, and by Stats. 1887, 57, ch. XLVIII, ante.

FRESNO COUNTY.

See tit. Boundaries.

FRUIT—MARKS AND BRANDS.

An act to provide for the marking, branding, or labeling of boxes, barrels, or packages containing fruits, fresh or dried, and fixing a penalty for the violation thereof, and for the appointment of inspectors under its provisions.

(Stats. 1903, 338, ch. CCLI.)

§ 1. All fruit green or dried, contained in boxes, barrels, or packages, which shall hereafter be shipped or offered for shipment in this state by any person, firm, or corporation, shall have stamped, branded, stenciled, or labeled in a conspicuous place on the outside of every such box, barrel, or package, in clearly legible letters at least one quarter of an inch in height, a statement truly and correctly designating the county and immediate locality in which such fruit was grown.

§ 2. Any person, firm, or corporation violating any of the provisions or requirements of section one of this act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than two hundred dollars, nor more than five hundred dollars.

§ 3. The governor of the state of California, after the passage of this act, shall appoint such inspectors as may be necessary to accomplish the purpose of this act, to serve without compensation, who are hereby vested with full authority to enter any car or depot containing fruit for shipment; or any warehouse, packing-house, store-room, or other place or places where any fruit is kept, packed or prepared for shipment, to inspect the same, or any

part thereof. Such inspectors are also vested with full authority to examine such books of any person, firm, or corporation engaged in packing or shipping fruit as may be necessary to accomplish the purposes of this act.

§ 4. This act shall take effect immediately on and after its passage.

See tits. **Labels; Produce and Manufactured Goods.**

FRUIT AND FRUIT PESTS.

See tits. **Horticulture; Viticulture.**

FUNDED DEBT OF STATE.

See tits. **State Debt; State Funds; State Loan Commissioners.**

FUNDS—COUNTY, TRANSFER OF.

The authority contained in Stats. 1880, subd. 18, § 25, County Government Act. 133, ch. CXX, for transfer of money from See decisions ante under that statute one fund to another has been carried into (1897).

FUNDS—STATE.

See tits. **State Funds; Swamp-Land Fund.**

GAME LAWS.

See tit. **Fish and Game.**

GAS COMPANIES.

Concerning gas companies.

(Stats. 1869-70, 815, ch. DXLVII.)

§ 1. From and after the passage of this act, it shall be lawful for the corporate authorities of every city and town in this state, and for the supervisors of the city and county of San Francisco, to grant to any gas company the privilege of laying down pipes in the streets or alleys of such towns and cities, including San Francisco, as aforesaid, and supplying gas for the lighting of the streets and buildings thereon; such privilege to continue for a term not exceeding twenty-five years.

§ 2. Every such license or privilege shall be upon condition that the authorities shall have the right at any time to allow similar privileges to other companies; and upon the further condition, that the laying down of such pipes shall be subject to the reasonable direction of said authorities, and shall do as little injury as possible to the paving, planking or macadamizing of the streets and alleys aforesaid; and that whenever the paving, planking or macadamizing of such streets or alleys is displaced for the purpose of laying down pipes or removing the same, or making connections therewith or repairs thereto, such paving, planking or macadamizing shall be replaced in as good order as practicable by such company.

§ 3. The authorities of every such town or city, including San Francisco as aforesaid, may contract with any gas company for lighting the streets thereof; but no such contract shall be made at a fixed rate for a longer term than five years, nor at a variable or other rate for a longer term than ten years; nor shall

any such contract be made at a higher rate than that now paid in the city of San Francisco.

§ 4. In addition to the foregoing provisions, the authorities of such towns and cities shall affix to every license or contract such conditions as will be for the benefit of the public, and may secure their enforcement by any orders or ordinances which they may deem necessary. They may, also, control the location and construction of the works so that they may be erected in suitable localities to give the least discomfort or annoyance to the public.

§ 5. This act shall take effect immediately.

The foregoing statute is treated as in force.—See *Dobbins vs. City of Los Angeles*, 139 Cal. 179-183, 96 Am. St. Rep. 95, 72 Pac. Rep. 970.

GAS—CONSUMERS OF.

To regulate the use of illuminating gas.

(Stats. 1903, 289, ch. CCXXXVI.)

§ 1. Every hotelkeeper, lodging-house keeper, and innkeeper, or keeper of any place where rooms are let to lodgers in which, or any of which such places illuminating gas is used, who shall turn off, or cause to be turned off at the meter the flow of such illuminating gas, during the time of the use of any such room or rooms, shall be guilty of a misdemeanor; provided, however, that this act shall not apply to any of the persons herein enumerated, when such person or persons shall have connected every exit orifice upon the gas fixtures used in such place or places with a practical and safe automatic gas igniter.

§ 2. This act shall take effect and be in force immediately from and after its passage.

TO REGULATE THE QUALITY AND PRICE IN CITIES having a population of 100,000 or more, Stats. 1877-8, 167, ch. CXXX.

The cities of this state having a population of 100,000 or more have charters conferring powers upon this subject.—San

Francisco Charter, ch. 2, art. 1; Los Angeles Charter, § 31, art. III; both charters being more recent than the above-cited statute. But see *San Francisco Gas L. Co. vs. Dunn*, 62 Cal. 581, 591; *Ames vs. San Francisco*, 76 Cal. 325, 326, 18 Pac. Rep. 397.

GAS PIPES.

See tits. **Franchises; Municipal Corporations.**

GEOLOGICAL SURVEY.

See tit. **State Geological Survey.**

GIFTS, BEQUESTS, ETC.—TO MUNICIPALITIES.

To authorize the several counties, cities and counties, cities, and towns of this state, and the officers and boards of officers thereof, to receive property by gift, bequest, and devise, and to hold, manage, and dispose of such property, and the income and increase thereof.

(Stats. 1881, 2, ch. III.)

§ 1. The boards of common council, supervisors, trustees, houses of legislation, or other legislative bodies of the several counties, cities and counties, cities, and towns of this state, are hereby authorized to accept or reject, as they may deem advisable, any gift, bequest, or devise heretofore or that may

be hereafter made to or in favor of the counties, cities and counties, cities, or towns represented by them respectively, or to or in favor of any of the officers or boards of officers thereof, in their official capacity, or to or in their favor in trust for any lawful public purpose.

§ 2. The several counties, cities and counties, cities, and towns of this state, and the several officers and boards of officers thereof, in their official capacity, are hereby authorized to receive property by gift, bequest, and devise, and to hold and dispose of the same, and the income and increase thereof, to and for such lawful uses and purposes as have been or may hereafter be prescribed in the terms of such gift, bequest, or devise. In the event of any such gift, bequest, or devise having been, or being hereafter made, unaccompanied by any provision prescribing or limiting the uses or purposes to which the property received thereunder, or the income or increase thereof shall be put, such uses and purposes may be prescribed and regulated by the common council, board of supervisors, board of trustees, houses of legislation, or other legislative body of the proper county, city and county, city, or town. Such legislative bodies may make such regulations concerning the mode and manner of carrying into effect the purposes as aforesaid, and devoting the property so received, and the income and increase thereof, to the uses aforesaid, in their respective counties, cities and counties, cities, and towns, as may be necessary.

See **KERR'S CYC. CIV. CODE.** § 1275, as amended 1903, and note.
Gifts to the state.—See next following statute.

GIFTS—TO PUBLIC USE.

To provide for the receipt and appropriation of donations to the state, or counties, or cities and counties, or cities or towns therein.

(Stats. 1880, 20, ch. XXVII.)

§ 1. Whenever any individual or corporation shall donate to the state, or to either of the counties, or cities and counties, or cities or towns, of this state, any money, the state treasurer, and the treasurer of such county, city and county, or city or town, is hereby authorized to receive the same; and, in case the individual or corporation making the same shall designate, at the time of making such donation, in writing, the fund he desires to benefit thereby, the said donation shall be appropriated accordingly; but in case no such designation be made, then all such donations shall be paid into the common school fund.

§ 2. This act shall be in force from and after its passage.

See next preceding statute.

GILROY.

See **Municipal Corporations.**

GLENN COUNTY—CREATING.

To create the county of Glenn, to establish the boundaries thereof, and to provide for its organization.

(Stats. 1891, 98, ch. XCIV.)

§ 1. There may be formed out of the northern part of Colusa County, a new county, to be called Glenn, in the manner and subject to the conditions herein named.

§ 2. The boundaries of said county shall be as follows: Beginning at a point on the boundary line between the counties of Colusa and Lake, as now established by law, at the northwest corner of the southwest quarter of section thirty, township eighteen north, range eight west, Mount Diablo base and meridian; running thence east along the half-section line, and one and one half miles north of the line dividing townships seventeen and eighteen north, of Mount Diablo base and meridian, to Butte Creek, the boundary line between Colusa and Butte counties; thence northerly along said Butte Creek, with said county line, to a point where the north line of township nineteen north intersects said Butte Creek; thence westerly along the boundary line between the counties of Butte and Colusa as now established by law, to the center of the Sacramento River; thence northerly, and following the meanderings thereof, along the center of said Sacramento River, to a point where the north line of township twenty-two intersects the center of the Sacramento River, being the initial point of Tehama County, as established by law; thence west along the north line of township twenty-two north, to the southwest corner of Tehama County, as established in section three thousand nine hundred and fifteen of the Political Code; thence southerly on the summit of the Coast Range Mountains, on the established line between Mendocino and Lake and Colusa counties, to the place of beginning.

§ 3. The seat of justice of said county of Glenn shall be at the town of Willows, until otherwise provided by law.

§ 4. There shall be held an election for county officers of said county on the first Tuesday in May, A. D. eighteen hundred and ninety-one, at which shall be elected a judge of the superior court, county clerk, sheriff, tax collector, treasurer, recorder, auditor, district attorney, assessor, superintendent of schools, county surveyor, coroner, public administrator, and five supervisors. At said election there shall be submitted to the qualified electors of said county of Glenn, as hereinafter described, the question whether they desire a separate county government; and, for the purpose of ascertaining the choice of said electors, the ballots used at said election shall have, written, or printed thereon, the words "For New County," "Against New County;" and all ballots from which the words "Against New County" are erased, shall be counted in favor of such separate county government; and all ballots from which the words "For New County" are erased, shall be counted against such separate county government. Said election shall be conducted in every respect, except as hereinafter otherwise provided, in accordance with the general law for the election of county and township officers.

§ 5. The governor shall, when this act takes effect, appoint five persons, residents and electors of the county of Glenn, who shall be and constitute a board of commissioners to perfect the organization of said county, a majority of whom shall constitute a quorum. Said commissioners shall meet in the town of Willows, within twenty days after their appointment, and after being duly sworn to faithfully discharge their duties as prescribed in this act, shall

organize by electing one of their number as president, and shall elect a clerk. The clerk shall keep a record of their proceedings. Three of the number of said board shall be necessary to transact business, and a majority of the votes of the members present at any meeting shall control in all matters coming before it.

§ 6. For the purpose of designating the several election precincts in the said county, the said board of commissioners shall meet at the town of Willows two weeks before the day of election, and at said meeting they shall designate the precincts of the county, the house or place within the precincts where the election must be held, and the offices to be filled; and appoint two inspectors, two judges of election, and two clerks for each of said precincts.

§ 7. The said board of commissioners, after designating the precincts of the county, and appointing the inspectors, judges, and clerks of the different precincts, shall give notice thereof by posting a written or printed notice in each of the said precincts, stating therein the boundaries of said precincts, and the names of the inspectors, judges, and clerks of election appointed for the same, and naming and numbering in numerical order, commencing with number one, the offices to be filled, and stating, also, that at said election there will be submitted to the qualified voters within the said county of Glenn the question of the final establishment of the said county.

§ 8. Sealed returns from the officers of election of the several precincts shall be made to the board of commissioners, at such office as they may select in the town of Willows, within six days after the said day of election. On the sixth day after the said election, the said board of commissioners shall meet in the town of Willows, in said county, and the returns of said election shall be opened and read in public, and a tabular statement shall thereupon be made, under their direction and in their presence, showing the vote given at each precinct of the county, for each candidate for the several offices, and the entire vote given in the county for each person, and also the vote for and against a separate county government; which said statement, so made out, shall be signed by the president and clerk of said board.

§ 9. As soon as the said statement is made, the said board, by an order entered upon its minutes, shall declare the result; and if a majority of those voting upon the question shall have voted in favor of a separate county government, the president of said board shall immediately make out and send, or deliver, to each person chosen, a certificate of election, signed by him as president of the board of commissioners and attested by the clerk of said board.

§ 10. Each person elected to fill an office of said county under the provisions of this act, shall qualify in the manner provided by law for such officers, and shall enter upon the discharge of the duties of his office within twenty days after the receipt of the certificate of his election. The person elected as judge of the superior court shall qualify before the president of said board of commissioners; and persons elected to offices of said county, other than the office of judge of the superior court, shall qualify before the judge of the superior court, or before the president of said board of commissioners, which

said president of said board of commissioners, for said purpose, shall have power to administer to each of said persons his official oath.

§ 11. The president of said board of commissioners shall transmit a copy of the tabular statement, prepared as provided in section eight of this act, to the secretary of state within twenty days after said election. The election returns of said county, and the original tabular statement, shall be retained by the president of said board of commissioners until the person elected as clerk of said county has qualified and entered upon the discharge of the duties of his office, after which they, with all the records of said board of commissioners, shall be immediately deposited with and filed by the clerk of said county, and shall be retained by him as part of the records of his office.

§ 12. The judge of the superior court chosen under the provisions of this act shall hold his office until the first Monday in January, eighteen hundred and ninety-seven, and until his successor is elected and qualified. The other officers hereinabove enumerated shall hold their respective offices until the first Monday in January, in the year eighteen hundred and ninety-three, and until their successors are elected and qualified. The successors of the officers elected under this act shall be chosen at the general election established by law, which takes place next preceding the expiration of their respective terms of office.

§ 13. As soon as the said county of Glenn shall have been divided into townships and road districts, in the manner provided by law, it shall be the duty of the board of supervisors thereof to appoint for each township two justices of the peace and two constables, and for each road district a road overseer. Said justices, constables, and road overseer shall each, respectively, hold his office until the next general election, and until his successor is elected and qualified.

§ 14. The officers elected and appointed under the provisions of this act shall each perform the duties and receive the compensation now provided by general law for the office to which he has been elected or appointed, in counties of the class to which the said county of Glenn belongs, under the general classification of counties in this state; and until otherwise provided by law, said county shall be classified as a county of the thirty-seventh class.

§ 15. If, at said election, a majority of the votes cast, on the question of a separate county government, shall be "For New County," then the said territory hereinabove described shall be and become a separate county from and after the day upon which the returns of the said election shall be ascertained and declared by the said board of commissioners.

§ 16. The said county of Glenn shall form a part of assembly district number ten, and senatorial district number eight, until otherwise provided by law.

§ 17. This act shall take effect and be in force from and after its passage.

See next succeeding statute.

Section 14.—*Sanders vs. Sehorn*, 98 Cal. 227, 228, 33 Pac. Rep. 58; *People ex rel. Searce vs. County Glenn*, 100 Cal. 419, 420,

35 Pac. Rep. 302; *County Colusa vs. Welch*, 122 Cal. 428, 429, 55 Pac. Rep. 243.

As to boundary, see next following statute.

GLENN COUNTY—BOUNDARY.

To change and permanently locate the boundary line between the counties of Glenn and Colusa.

(Stats. 1893, 158, ch. CXLI.)

§ 1. The boundary lines between the counties of Glenn and Colusa are hereby established and permanently located, as follows: Beginning at a point on the boundary line between the counties of Colusa and Lake, as now established by law, at the northwest corner of the southwest quarter of section thirty, township eighteen north, range eight west, Mount Diablo base and meridian; running thence east along the half-section line, and one and one half miles north of the line dividing townships seventeen and eighteen, of Mount Diablo base and meridian, to range line dividing township eighteen north, two and three west; running thence north two miles to northeast corner of southeast quarter of section thirteen, township eighteen north, range three west; running thence east along the half-section line to the center of the Sacramento River, thence down the center of the said Sacramento River, in a southeasterly course, to a point where a line between Glenn and Colusa counties crosses the said Sacramento River; thence east to Butte Creek.

§ 2. All other acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect immediately.

See last preceding statute.

GLEN ELLEN.

See tit. **Children, Feeble-Minded.**

GOATS.

To prevent buck goats from running at large.

(Stats. 1877-8, 437, ch. CCCXXVII.)

The above statute has been carried into the Penal Code by Stats. 1905, 678, ch. DXVIII.
See **KERR'S CYC. PEN. CODE** § 597g.

GOLDEN CITY HOMESTEAD ASSOCIATION.

To authorize the sale and conveyance to the Golden City Homestead Association of certain overflowed lands in the city and county of San Francisco.

(Stats. 1863-4, 463, ch. CCCCVII.)

§ 1. The commissioners of swamp and overflowed lands are authorized, whenever requested by the officers of the Golden City Homestead Association, to appraise the value of the lands belonging to the state in front of the lands of said association at the Potrero Nuevo, in the city and county of San Francisco, commencing at the boundary of the lands of said association as shown by the map and survey of the said Potrero Nuevo made by William J. Lewis, in the year one thousand eight hundred and fifty-six, and extending in an easterly direction to the easterly line of Massachusetts Street, as shown by said map; and said board of swamp-land commissioners shall certify the amount found to be the value of said land to the treasurer of the state, and also to the surveyor-general. And upon the approval of the survey of the county surveyor by the surveyor-general, and upon the payment to the treas-

urer of the state, to the credit of the wharf and dock fund, of the amount so found to be the value of said land, the register of the state land office shall certify said approval and payment to the governor, whereupon a patent shall issue for said land to said corporation.

§ 2. Within thirty days after the appraisalment by said commissioners, the surveyor of the city and county of San Francisco shall make out a plat and field-notes of said survey. He shall, within ten days thereafter, record the same in his office, and forward duplicate certified copies of the same to the surveyor-general, and it shall be the duty of the surveyor-general, upon examination and approval of said survey, to return one of the duplicate copies, with his approval indorsed thereon, to said county surveyor, to be by him delivered to the parties desiring the survey; provided, said approval and return of duplicate shall be within ten days after the receipt of said plat and field-notes.

§ 3. All expenses attending said appraisalment by the commissioners, together with all the costs incident to an accurate survey of the said lands by the surveyor of the city and county of San Francisco, shall be paid by said association.

§ 4. The said association or its assigns shall not have the power to make any use of said lands or any part thereof that shall interfere with the navigation of the bay of San Francisco; provided, that neither the said association, nor its employees, agents, successors, or assigns, shall have any right to levy or collect any tolls, dockage, or wharfage on said lands.

§ 5. This act shall take effect and be in force from and after its passage.

GOLDEN POPPY.

See tit. **State Flower.**

GOOD TEMPLARS.

The Act of 1863, 101, ch. XCIV, authorizing incorporated lodges to take and hold real estate, is of no further utility. See **KERR'S CYC. CIV. CODE** §§ 354, 360, 594, 604.

GOVERNOR—RESIDENCE.

The following acts have been passed upon the subject of a residence for the governor: 1899, 73, ch. LX, amended 1903, 415, ch. CCLXXXIX; 1899, 150, ch. CXV, amended 1903, 415, ch. CCLXXXIX; and as to repairs of and general appropriation for, see Stats. 1905, 234 and 743.

GOVERNOR—ROBBERY—REWARDS.

Imposing certain duties upon the governor of the state.

(Stats. 1875-6, 855, ch. DLXVI.)

The above-mentioned statute is carried into the Penal Code by Stats. 1905, ch. CCXLVIII; and amount of reward that may be offered is increased to one thousand dollars. See **KERR'S CYC. PEN. CODE**, § 1547.

GOVERNOR—STENOGRAPHER FOR.

To authorize the governor to employ a stenographer for his office, and to provide for the payment of his salary.

(Stats. 1891, 1, ch. I.)

§ 1. The governor of California is hereby authorized to appoint a stenographer to assist him in the duties of his office, and who shall serve during his pleasure. He shall perform such duties as may be assigned to him by the governor from time to time. The salary of such stenographer shall be sixteen hundred dollars per annum, payable as the salary of state officers.

§ 2. The sum of eight hundred dollars is hereby appropriated out of the general fund of the state treasury for the payment of the salary of the stenographer during the forty-second fiscal year.

§ 3. This act shall take effect from and after its passage.

See tit. **Agriculture, Cereal Crops.**

GRAND ARMY OF REPUBLIC—BADGE.

To prevent persons from unlawfully using or wearing the badge of the Grand Army of the Republic of this state.

(Stats. 1887, 82, ch. LXXIV.)

§ 1. Any person who shall wilfully wear the badge of the Grand Army of the Republic, or who shall use or wear the same to obtain aid or assistance thereby within this state, unless he shall be entitled to use or wear the same under the rules and regulations of the Department of California, Grand Army of the Republic, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for a term not to exceed thirty (30) days in the county jail, or a fine not to exceed twenty (20) dollars, or by both such fine or [and] imprisonment.

§ 2. This act shall take effect and be in force from and after the date of its passage.

GRAND JURY.

See tit. **Interpreters.**

GRASS VALLEY.

See tit. **Municipal Corporations.**

GUIDE-POST—DESERTS.

Appropriating the sum of five thousand dollars for the purpose of procuring guide-posts to be erected in the desert sections of California, and particularly in the counties of Kern, Ventura, Los Angeles, Inyo, Riverside, San Bernardino and San Diego.

(Stats. 1905, 805, ch. DCIX.)

§ 1. The sum of five thousand dollars is hereby appropriated from any money in the state treasury, not otherwise appropriated, for the purpose of procuring metallic guide-posts, upon which are to be indicated the distance and direction from said posts, the location of wells, springs, or tanks of water fit for drinking purposes and other information of value, in the desert sections of California, particularly in the counties of Kern, Ventura, Los Angeles, Inyo, Riverside, San Bernardino and San Diego; providing, however, that each of said counties, (for its own county) shall bear the expense of the proper erection

of said guide-posts at such points in the county as may be designated by the department of highways, and shall pay all expenses attendant upon the placing of said posts, as well as the expense incurred in placing the directions above mentioned upon said posts.

§ 2. The purchase and distribution of such posts is hereby placed under the management and control of the department of highways of the state of California, and it is made the duty of said department of highways to designate the points at which said posts shall be placed. Said posts shall be at least ten feet in length and shall be made of not less than two-inch nor more than three-inch iron pipe, to be set in metallic crosspieces of such size and to be sunk in the earth at such depth as will insure proper anchorage. Said posts shall have iron cross-arms on which shall be affixed metallic letters stating the information mentioned in section one of this act.

§ 3. Any person removing, defacing or in any manner injuring said guide-posts shall be deemed guilty of a felony.

§ 4. The state controller is hereby directed to draw his warrant in favor of the highway commissioner for the sum of five thousand dollars and the state treasurer is hereby directed to pay the same.

: **GULLS.**—See tit. *Seagulls*.

HAIR-CUTTING—PRISONS.

To protect public health, to prevent the introduction and spreading of disease, and to provide for the protection of the health of criminals under sentence on a conviction of misdemeanor.

(Stats. 1883, 280, ch. LI.)

This statute has been carried into the Penal Code by Stats. 1905, 710, ch. DXLVII. See **KERR'S CYC. PEN. CODE**, § 1615.

HARBORS.

See tit. *Humboldt Bay*.

HARBOR COMMISSIONERS.

See tit. *State Harbor Commissioners*.

HASTINGS COLLEGE OF THE LAW.

See tit. *University of California*.

HAT CREEK.

See tit. *Fish and Game*.

HAYWARDS—TOWN OF.

See tit. *Municipal Corporations*.

HEALDSBURG.

See tit. *Municipal Corporations*.

HEALTH—EMPLOYEES.

See tit. *Factories and Workshops*.

HEALTH—PLUMBING.

To grant to boards of health or health officers, in cities, and cities and counties, the power to regulate the plumbing and drainage of buildings, and to provide for the registration of plumbers.

(Stats. 1885, 12, ch. XIV; amended 1887, 58, ch. L.)

§ 1. It shall not be lawful for any person to carry on business, or labor as a master or journeyman plumber, in any incorporated city, or in any city and county, in this state until he shall have obtained from the board of health of said city or city and county a license authorizing him to carry on business, or labor as such mechanic. A license so to do shall be issued only after a satisfactory examination by the board of each applicant upon his qualifications to conduct such business or to so labor. All applications for license, and all licenses issued, shall state the name in full, age, nativity, and place of residence of the applicant or person so licensed. It shall be the duty of the secretary of each board of health to keep a record of all such licenses issued, together with an alphabetical index to the same. [Amendment, Stats. 1887, 58.]

§ 2. A list of all licensed plumbers shall be published in the yearly report of the health officer or board of health. [Amendment, Stats. 1887, 58.]

§ 3. The drainage and plumbing of all buildings, both public and private, hereafter erected in any city, or city and county, shall be executed in accordance with plans previously approved in writing by the board of health of said city, or city and county; and suitable drawings and description of the said drainage and plumbing shall, in each case, be submitted to the board of health, and placed on file in the health office. The said board of health is also authorized to receive and place on file drawings and descriptions of the drainage and plumbing of buildings erected prior to the passage of this act.

§ 4. The board of supervisors, or other city, or city and county, officials whose duty it is to make appropriations and tax levies for general purposes of such city, or city and county, shall make the necessary appropriations and tax levies, and shall insert the same in the yearly tax levy, to provide for carrying out the provisions of this act. Such appropriations and levy shall be made at the same time and in the same manner as appropriations and tax levies are made for other city, or city and county, purposes.

§ 5. In any city, or city and county, where there is under existing laws, a health officer, but no board of health, such health officer shall perform all the duties required by this act of the board of health until a board of health shall be created, and in any city, or city and county, where there is no health officer nor board of health, the board of supervisors or city council, or other municipal legislative board or body, shall create a board of health, who shall perform all the duties required by this act of the board of health or health officer.

§ 6. Any superior court, or judge thereof, shall have power to restrain by injunction the continuance of work to be done upon or about buildings or premises where the provisions of this act have not been complied with, and no undertaking shall be required as a condition to the granting or issuing of such injunction, or by reason thereof.

§ 7. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished accordingly.

§ 8. This act shall take effect immediately.

HEALTH—PUBLIC.

To protect public health from infection caused by exhumation and removal of the remains of deceased persons.

(Stats. 1877-8, 1050, ch. DCLXXIII; amended 1889, 139, ch. CXXVIII.)

§ 1. It shall be unlawful to disinter or exhume from a grave, vault, or other burial-place, the body or remains of any deceased person, unless the person or persons so doing shall first obtain, from the board of health, health officer, mayor, or other head of the municipal government of the city, town, or city and county where the same are deposited a permit for said purpose. Nor shall such body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be removed or transported in or through the streets or highways of any city, town, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain, from the board of health or health officer (if such board or officer there be), and from the mayor or other head of the municipal government of the city or town, or city and county, a permit, in writing, so to remove or transport such body or remains in and through such streets and highways.

§ 2. Permits to disinter or exhume the bodies or remains of deceased persons, as in the last section, may be granted, provided the person applying therefor shall produce a certificate from the coroner, the physician who attended such deceased person, or other physician in good standing cognizant of the facts, which certificate shall state the cause of death or disease of which the person died, and also the age and sex of such deceased; and provided further, that the body or remains of the deceased shall be inclosed in a metallic case or coffin, sealed in such manner as to prevent, as far as practicable, any noxious or offensive odor or effluvia escaping therefrom, and that such case or coffin contains the body or remains of but one person, except where infant children of the same parent or parents, or parent and children, are contained in such case or coffin. And the permit shall contain the above conditions and the words: "Permit to remove and transport the body of ————, age ————, sex ————," and the name, age and sex shall be written therein. The officer of the municipal government of the city or town, or city and county, granting such permit, shall require to be paid for each permit the sum of ten dollars, to be kept as a separate fund by the treasurer, and which shall be used in defraying expenses of and in respect to such permits, and for the inspection of the metallic cases, coffins, and inclosing boxes herein required; and an account of such moneys shall be embraced in the accounts and statements of the treasurer having the custody thereof.

§ 3. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed, from a grave, vault, or other receptacle, or burial-place, the body or remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty nor more than five hundred dollars, or by imprisonment in

the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. Nor shall it be lawful to receive such body, bones, or remains on any vehicle, car, barge, boat, ship, steamship, steamboat, or vessel, for transportation in or from this state, unless the permit to transport the same is first received, and is retained in evidence by the owner, driver, agent, superintendent, or master of the vehicle, car, or vessel.

§ 4. Any person or persons who shall move or transport, or cause to be moved or transported, on or through the streets or highways of any city or town, or city and county, of this state, the body or remains of a deceased person, which shall have been disinterred or exhumed without a permit, as described in section two of this act, shall be guilty of a misdemeanor, and be punishable as provided in section three of this act.

§ 5. Any person who shall give information to secure the conviction of any person or persons for the violation of the provisions of this act shall be entitled to receive the sum of twenty-five dollars, to be paid from the fund collected from fines imposed and accruing under this act.

§ 6. Nothing in this act contained shall be taken to apply to the removal of the remains of deceased persons from one place of interment to another cemetery or place of interment within this state; provided, that no permit shall be issued for the disinterment or removal of any body unless such body has been buried for one year or more without the written consent of the mayor, chairman of the board of supervisors or city council of any municipality of the state. [Amendment, Stats. 1889, 139.]

§ 7. This act shall take effect and be in force from the thirtieth day after its passage and approval.

See tit. **Cemeteries—Disinterment**, and note thereunder; and see Stats. 1905, 115, ch. CXIX herein, under tit. **Burial and Dis-**

interment Permits; also **KERR'S CYC. PEN. CODE**, § 290, and **KERR'S CYC. POL. CODE**, § 3027.

HEALTH—PUBLIC.

To prevent the introduction of contagious or infectious diseases into the state of California.

(Stats. 1883, 376, ch. XC.)

§ 1. Whenever there shall exist, in the opinion of the state board of health, imminent danger of the introduction of contagious or infectious diseases into the state of California, by means of railroad communication with other states, the said state board of health are authorized, and it is hereby made their duty, to make or cause to be made, by an accredited agent or inspector, an inspection of all railroad cars, coming into the state at such point, or between such points within the state limits as may be selected for the purpose.

§ 2. Such inspection shall be made, where practicable, during the ordinary detention of a train at a station, or while in transit between stations, and in all cases shall be so conducted as to occasion the least possible detention or interruption of travel or inconvenience to the railroad companies, so far as consistent with the purposes of this act.

§ 3. Should the discovery be made of the existence among the passengers of

any case or cases of dangerous, contagious, or infectious disease, the said board of health, or their agent or inspector, under rules and conditions prescribed by them as being applicable to the nature of the disease, shall have power to cause the side-tracking or detention of any car or cars so infected, to isolate the sick or remove them to a suitable place of treatment, to establish a suitable refuge station, to cause the passengers and materials in such infected car to be subjected to disinfection and cleansing before proceeding farther into the state, and, in the case of smallpox, to offer free vaccination to all persons exposed in any car or at any station.

§ 4. The sum of five hundred dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be expended solely for the purposes of this act, and all expenditures herein authorized shall be specified in an itemized account to be presented to the state board of examiners, and paid as other demands on the treasury are paid; provided, that in no case shall the sum expended exceed that herein specially appropriated for the purpose.

§ 5. This act shall take effect from and after its passage.

HEALTH—PUBLIC.

To prevent the introduction, and provide for the investigation and suppression of contagious or infectious diseases, and appropriating money to be used for such purpose.

(Stats. 1903, 255, ch. CCXVIII.)

§ 1. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to be expended by the state board of health, under the direction of the governor, for the prevention of the introduction of Asiatic cholera, bubonic plague, smallpox or other contagious or infectious disease into this state, and for their investigation and suppression in case of their origin or introduction. The claims for such expenditures must be audited by the board of examiners, except that when, in the opinion of the governor, an emergency arises which demands or necessitates the immediate use of money for the purposes herein provided, the controller must draw his warrant in the name of the governor, without such audit, on account of the sum hereby appropriated, upon the order of the governor, in such sums, from time to time, not exceeding one thousand dollars (\$1,000) at any one time, as he may direct. In cases where sums are so drawn upon the order of the governor, without audit by the board of examiners, vouchers must be thereafter filed with the controller, showing the manner and the purposes for which such sums have been expended.

§ 2. This act takes effect immediately.

HEALTH, PUBLIC—VACCINATION.

To encourage and provide for a general vaccination in the state of California.

(Stats. 1889, 32, ch. XXIV.)

§ 1. The trustees of the several common school districts in this state, and boards of common school government in the several cities and towns, are

directed to exclude from the benefits of the common schools therein any child or any person who has not been vaccinated, until such time when said child or person shall be successfully vaccinated; provided, that any practising and licensed physician may certify that the child or person has used due diligence and cannot be vaccinated so as to produce a successful vaccination, whereupon such child or person shall be excepted from the operation of this act.

§ 2. The trustees or local boards, annually, or at such special times to be stated by the state board of health, must give at least ten days' notice, by posting a notice in two or more public or conspicuous places within their jurisdiction, that provision has been made for the vaccination of any child of suitable age who may desire to attend the common schools, and whose parents or guardians are pecuniarily or otherwise unable to procure vaccination for such child.

§ 3. The said trustees or board must, within sixty days after the passage of this act, and every year thereafter, ascertain the number of children or persons in their respective school districts or subdivision of the city school government being of an age suitable to attend common schools, who have not been already vaccinated, and make a list of the names of all such children or persons. It also shall be [the] duty of said trustees or board to provide, for the vaccination of all such children or persons in their respective school districts, a good and reliable vaccine virus wherewith to vaccinate such children or persons who have not been vaccinated. And when so vaccinated, to give a certificate of vaccination, which certificate shall be evidence thereof for the purpose of complying with section one.

§ 4. The necessary expenses incurred by the provisions of this act shall be paid out of the common school moneys apportioned to the district, city, or town. And if there be not sufficient money, the trustees must notify the board of supervisors of the amount of money necessary, and the board must, at the time of levying the county tax, levy a tax upon the taxable property in the district sufficient to raise the amount needed. The rate of taxation is ascertained by deducting fifteen per centum for delinquencies from the assessment, and the rate must be based upon the remainder. The tax so levied must be computed and entered upon the assessment roll by the county auditor, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of the district.

§ 5. The trustees of the several school districts of this state are hereby required to include in their annual report, and report to the secretary of the state board of health, the number in their several districts between the ages of five and seventeen years who are vaccinated, and the number unvaccinated.

§ 6. This act shall take effect immediately.

Abeel vs. Clark, 84 Cal. 226, 228, 24 Pac. Rep. 383; *French vs. Davidson*, 143 Cal. 658, 77 Pac. Rep. 663.

Compulsory vaccination,—as to, see 25 L. R. A. 142; 26 Id. 728; 39 Id. 152; 42 Id. 175; 49 Id. 588.

See **tits**, **Adulteration**; **Hair Cutting**;

Honey; **Lodging-Houses**; **Public Health**; **State Board of Health**.

See also **KERR'S CYC. POL. CODE** §§ 2978-2984; **KERR'S CYC. PEN. CODE** §§ 377a and 1615.

As to contagious diseases in animals, see **KERR'S CYC. PEN. CODE** § 402d.

HIDES—CATTLE.

See tit. Animals—Hides of.

HIGH SCHOOLS.

Legalizing the establishment of high schools in incorporated cities, and providing for the maintenance and support of such schools.

(Stats. 1901, 299, ch. CXL.)

§ 1. All proceedings for the establishment of high schools heretofore established in incorporated cities are hereby declared legal.

§ 2. This act shall take effect immediately.

Citing the general provisions of Stats. 1891, 57, ch. LXIII. See *People ex rel. Brown vs. School Dist.*, 101 Cal. 655, 656, 36 Pac. Rep. 119.

See next succeeding statutes and notes.

HIGH SCHOOL BOARDS.

Relative to the meeting place of high school boards within municipal corporations.

(Stats. 1901, 296, ch. CXXXVI.)

§ 1. Where high schools are situated within the limits of a municipal corporation, the meetings of the high school board may be held at the high school building, or at the meeting place provided for the board of education of such municipal corporation, as shall be determined by resolution adopted by said high school board.

§ 2. This act shall take effect immediately.

HIGH SCHOOL DISTRICTS.

The Statutes of 1891, 57, ch. LXIII, and 182, ch. CXXXVII, purported to authorize municipalities of more than 1,500 inhabitants to maintain a high school or union high schools. Provisions of the statute were held unconstitutional in *McCabe vs. Carpenter*, 102 Cal. 469, 36 Pac. Rep. 836; *Board of Education vs. Board of Trustees*, 129 Cal. 599, 601-603, 62 Pac. Rep. 173. And see *People ex rel. Brown vs. School Dist.*, 101 Cal. 655, 656, 36 Pac. Rep. 119; *Elberg vs. County San Luis Obispo*, 112 Cal. 316, 317, 41 Pac. Rep. 475, 44 Pac. Rep. 572; *Peo-*

ple ex rel. Pixley vs. Lodi High School Dist., 124 Cal. 694, 696, 57 Pac. Rep. 660.

The subject was carried into the Political Code by Stats. 1893, 236-276; and by section 72 of the later statute the statute of 1891 was repealed. See **KERR'S CYC. POL. CODE**, §§ 1669-1671.

For further review of the subject, see *Hancock vs. Board of Education*, 140 Cal. 554, 74 Pac. Rep. 44.

See next following statute as to **High School Funds**.

HIGH SCHOOLS—FUND.

Creating a fund for the benefit and support of high schools and providing for its distribution, and repealing an act entitled "An act creating a fund for the benefit and support of high schools and providing for its distribution," approved March second, nineteen hundred and three.

(Stats. 1905, 58, ch. LXV.)

§ 1. There is hereby levied annually for the fifty-fifth and fifty-sixth fiscal years, ending respectively June thirtieth, nineteen hundred and four, and June thirtieth, nineteen hundred and five, an ad valorem tax of one and one half cents upon every hundred dollars of the value of the taxable property of the state, which tax shall be collected by the several officers charged with the collection of state taxes, in the same manner and at the same time as other state

taxes are collected, upon all and any class of property, which tax is for the support of regularly established high schools of the state. And it is further enacted that, beginning with the fifty-seventh fiscal year, to wit: July first, nineteen hundred and five, it shall be the duty of the state controller, annually, between the tenth day of August and the first day of September, at the time that he is required to estimate the amount necessary for other school taxes, to estimate the amount necessary to be levied for the support of high schools. This amount he shall estimate by determining the amount required at fifteen dollars per pupil in average daily attendance in all the duly established high schools of the state for the last preceding school year, as certified to him by the state superintendent of public instruction. This amount the state controller, between the dates above given, must certify to the state board of equalization.

§ 2. The state board of equalization at the time when it annually determines and fixes the rate of state taxes to be collected, must declare the levy and the rate of tax for the support of state high schools in conformity with the provisions of section one of this act.

§ 3. The money collected as provided in sections one and two hereof, after deducting the proportionate share of expenses of collecting the same to which other taxes are subject, must be paid into the state treasury, to be by the state treasurer converted into a separate fund, hereby created, to be called the "State High School Fund."

§ 4. The money paid into the state high school fund is hereby appropriated without reference to fiscal years for the use and support of regularly established state high schools and is exempt from the provisions of part three, title one, article eighteen, of an act entitled "An act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, relating to the state board of examiners.

§ 5. The money in said state high school fund shall be apportioned to the high schools of the state by the state superintendent of public instruction in the following manner: He shall apportion one third of the annual amount among the county, district, city, union, or joint union high schools of the state, irrespective of the number of pupils enrolled or in average daily attendance therein, except as hereinafter provided; the remaining two thirds of the annual amount he shall apportion among such schools pro rata upon the basis of average daily attendance as shown by the official reports of the county or city and county school superintendents for the last preceding school year; provided, that such high schools have been organized under the law of the state, or have been recognized as existing under the high school laws of the state and have maintained the grade of instruction required by law of the high schools: and provided, that no school shall be eligible to a share of said state high school fund that has not during the last preceding school year employed at least two regularly certificated high school teachers for a period of not less than one hundred and eighty days with not less than twenty pupils in average daily attendance for such length of time, except in newly established high schools wherein the minimum average daily attendance for the first year of one hundred and eighty days may be but twelve pupils and but one teacher; and provided, that before receiving state aid, each school shall furnish satis-

factory evidence to the superintendent of public instruction of the possession of a reasonably good equipment of building, laboratory, and library, and of having maintained, the preceding school year, proper high school instruction for a term of at least one hundred and eighty days; provided further, that the foregoing provisions relating to the average daily attendance and the number of teachers employed shall not operate to disqualify any legally established high school existing at the date of the passage of this act from receiving a share of said state high school fund until July first, nineteen hundred and four.

§ 6. The principal of every high school entitled to state aid in accord with the foregoing provisions shall annually at the close of the term and prior to receiving his last month's salary and as a prerequisite for such salary make out under oath and deliver to the county superintendent of the county or city and county wherein such high school is situated a full and complete report of said high school for the entire term or school year; such report to show the number of pupils enrolled, the average daily attendance, number of teachers regularly employed, the courses of instruction pursued, and such other information as may be required by the superintendent of public instruction and the county superintendent of schools, the said report to be made upon blanks furnished by said superintendent of public instruction as other school report blanks are furnished; provided, that in the case of joint union high school districts the principals thereof shall report as above required to county superintendents of each of the counties having territory within such joint union high school districts, and in such reports the statistics of attendance and other data for each county separately and collectively shall be given.

§ 7. The county superintendent of every county, or city and county, wherein is located a high school, or the building or buildings of a joint union high school, shall annually, at the time required for making reports of primary and grammar schools, make report under oath to the superintendent of public instruction, showing the number of pupils enrolled, average daily attendance, number of teachers regularly employed, and such other information regarding the high schools of his county, or city and county, as he may deem proper, or as may be required by the superintendent of public instruction; said report to be made upon blanks furnished by the superintendent of public instruction.

§ 8. It shall be the duty of the county or city and county superintendent of schools of every county, or city and county, wherein is located a high school, or the building or buildings of a joint union high school, on the order of the board of trustees of such high school, to draw his requisition upon the county auditor against the funds of such high school, but no requisition shall be drawn unless the money is in the fund to pay it, and no requisition shall be drawn upon the order of the board of high school trustees or board of education against the state high school fund, except for teachers' salaries, and the order shall state the monthly salary of the teacher, and name the month or months for which such salary is due. Upon the receipt of such requisition the auditor shall draw his warrant upon the county treasurer in favor of the parties for the amount stated in such requisition, and the county treasurer is hereby authorized to pay the same.

§ 9. High schools eligible to receive state aid as herein provided shall admit as students only such pupils as have completed the full course of instruction

prescribed for the primary and grammar schools of the county, city or city and county wherein the high school is located, or an equivalent course, or such pupils as may show by thorough examination that their qualifications are equivalent to the requirements for graduation from said primary and grammar school course; provided, that pupils otherwise qualified to enter a high school and residing in territory wherein no high school exists shall have the right to attend any high school that receives state aid under the provisions of this act without the payment of tuition fee, if such schools have room or accommodations for them; further provided, that after July first, nineteen hundred and five, a non-resident pupil shall, in the discretion of the high school board of the high school district where he attends, be required to pay a tuition fee to such school equal to the difference between the cost per pupil for maintenance of such high school and the amount per pupil received during that school year by such high school from the state.

§ 10. The state controller must keep a separate account of the high school fund raised as provided in sections one and two of this act. He must on the first Monday in January and on the first Monday in July in every year report to the superintendent of public instruction a statement of all moneys belonging to the state high school fund. He must draw his warrant on the state treasurer in favor of any county or city and county treasurer whenever such treasurer presents, with his indorsement, an order drawn by the superintendent of public instruction against the state high school fund, and the state treasurer is hereby authorized to pay the same; provided, that in the case of counties having joint union high school districts the order of the superintendent of public instruction and the warrant of the state controller shall be in favor of the county treasurer of that county wherein the high school building or buildings are located or wherein the high school is being conducted.

§ 11. It is hereby made the duty of the treasurer of every county, or city and county, that receives state money under the provisions of this act to place the same to the credit of the funds of the respective high schools of his county, or city and county, in accord with the apportionment made by the superintendent of public instruction, and to pay out the same according to the provisions of section eight of this act.

§ 12. The act entitled "An act creating a fund for the benefit and support of high schools and providing for its distribution," approved March second, nineteen hundred and three, is hereby repealed.

§ 13. This act shall take effect and be in force from and after July first, nineteen hundred and five.

It will be observed that the statute of 1903 is repealed by section 12 of this statute.

HIGHWAYS.

See tits. **Roads and Highways; Streets.**

HISTORIC PROPERTY—ACQUISITION OF.

To provide for the acquisition of the old mission at Sonoma, of Fort Ross property, of the landing-place at Monterey of Junipero Serra, and the old theater property at Monterey, and providing for the preservation, maintenance, protection and improvement of said properties.

(Stats. 1905, 17, ch. XXII.)

§ 1. The board of Sutter's Fort trustees, created and existing under an act entitled "An act to provide for the appointment of a board of Sutter's Fort trustees, and the acquisition of the Sutter Fort property, and providing for an appropriation for the preservation, protection and improvement of said property," approved March seventh, eighteen hundred and ninety-one, are hereby authorized to receive and accept from William Randolph Hearst, trustee of the Landmarks Fund, without cost to the state, the possession and title to the old mission at Sonoma and Fort Ross in the county of Sonoma.

§ 2. The said board of Sutter's Fort trustees shall provide for the preservation, maintenance, protection and improvement of the property hereinbefore described, in such way and manner as in their judgment may seem best and proper.

§ 3. The board of Monterey custom-house trustees created and existing under an act entitled "An act to provide for the appointment of a board of Monterey custom-house trustees and for the acquisition and control of the Monterey custom-house property, and providing for an appropriation for the preservation, protection and improvement of said property," approved March sixteenth, nineteen hundred and one, are hereby authorized to receive and accept from William Randolph Hearst, trustee of the Landmarks Fund, without cost to the state, possession and title to the landing-place at Monterey of Junipero Serra, in the county of Monterey, and old theater property at Monterey, in the county of Monterey.

§ 4. The said board of Monterey custom-house trustees shall provide for the preservation, maintenance, protection and improvement of the property last before described, in such way and manner as in their judgment may seem best and proper.

§ 5. This act shall take effect immediately.

See tit. Colton Hall.

HOGS.

See tits. Animals; Estrays; Quarantine.

HOLIDAYS.

Authorizing boards of supervisors or other governing bodies of municipalities to declare holidays.

(Stats. 1901, 568, ch. CCXIX.)

§ 1. The board of supervisors or other governing body of any county, town, city, or city and county, may declare the day on which a primary or other election is held in such municipality to be a holiday therein.

HOLLISTER—TOWN OF.

See tit. Municipal Corporations.

HOME FOR ADULT BLIND.

See tit. Deaf, Dumb and Blind.

HOMESTEAD ASSOCIATIONS.

See tit. Golden City Homestead Association.

HOMESTEAD CORPORATIONS.

The Act of 1861, 567, ch. DII, authorizing the formation of these corporations, was supplemented by 1873-4, 525, ch. CCCLXV. The original act limited their existence to five years, and the later act authorized a

continued existence to the extent of ten years. See **KERR'S CYC. CIV. CODE**, §§ 557-566; also *Murphy vs. Pacific Bank*, 119 Cal. 334, 51 Pac. Rep. 317.

HOMESTEAD—FAMILY.

To enable certain parties therein named to alienate or encumber homesteads.
(Stats. 1873-4, 582, ch. CCCCXI.)

The above statute has been carried into the Civil Code by Stats. 1905, 725, ch. DLX. See **KERR'S CYC. CIV. CODE** §§ 1269a-1269c.

The statute has been cited in the fol-

lowing cases: *Security Loan etc. vs. Kauffman*, 108 Cal. 214, 220, 41 Pac. Rep. 467; *Rider vs. Regan*, 114 Cal. 667, 670, 46 Pac. Rep. 820; *Jones vs. Favalva*, 126 Cal. 24, 25, 58 Pac. Rep. 311.

HOMING PIGEONS.

See tit. *Antwerp Messenger*.

HONEY—ADULTERATION.

To prohibit the adulteration of honey, and to provide a punishment therefor.
(Stats. 1897, 12, ch. XV.)

§ 1. No person shall, within this state, manufacture for sale, offer for sale, or sell any extracted honey which is adulterated by the admixture therewith of either refined or commercial glucose, or any other substance or substances, article or articles which may in any manner affect the purity of the honey.

§ 2. Every person manufacturing, exposing, or offering for sale or delivering to a purchaser any extracted honey, shall furnish to any person interested, or demanding the same, who shall apply to him for the purpose, and tender him the value of the same, a sample sufficient for the analysis of any such extracted honey which is in his possession.

§ 3. For the purposes of this act, "extracted honey" is the transformed nectar of flowers, which nectar is gathered by the bee from natural sources, and is extracted from the comb after it has been stored by the bee.

§ 4. Whoever violates any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five nor more than four hundred dollars, or imprisoned in the county jail not less than twenty-five days nor more than six months, or both such fine and imprisonment. And any person found guilty of manufacturing, offering for sale, or selling any adulterated honey under the provisions of this act may, in the discretion of the court, be adjudged to pay, in addition to the penalties hereinbefore provided for, all necessary cost and expenses, not to exceed fifty dollars, incurred in analyzing such adulterated honey of which such person may have been found guilty of manufacturing, selling, or offering for sale.

§ 5. This act shall be in force and take effect from and after its passage.

See tits. *Adulteration; Foods; Health—Public; State Board of Health*.

HOPS.

Fixing the rate of tare on baled hops.

(Stats. 1891, 452, ch. CCXXXVI.)

§ 1. There shall be allowed on baled hops a tare at the rate of two per centum of the weight of the bale for the cloth and other material used in baling; that is, the tare shall be at the rate of two pounds per hundred on the weight of the bale.

§ 2. This act shall take effect and be in force from and after its passage.

HORNITOS—TOWN OF.

See tit. **Municipal Corporations.**

HORTICULTURE—BENEFICIAL INSECTS.

Making an appropriation for searching for beneficial insects.

(Stats. 1905, 193, ch. CC.)

§ 1. There is appropriated out of any money not otherwise appropriated the sum of twelve thousand (\$12,000) dollars to be used by the state horticultural commission in searching for beneficial insects.

§ 2. The controller is hereby authorized to draw warrants from time to time as the investigation progresses in favor of said commission.

§ 3. The money hereby appropriated shall be expended under the direction of said commission but all requisitions shall be audited and allowed by the state board of examiners before payment.

See tits. **Horticulture, Protection; Horticulture, State Board, post.**

HORTICULTURE—COUNTY BOARDS.

To promote the horticultural interests of the state by providing county boards of horticulture, and repealing the act entitled "An act to protect and promote the horticultural interests of the state," approved March fourteenth, eighteen hundred and eighty-one, and certain acts amendatory thereof, approved March nineteenth, eighteen hundred and eighty-nine, and March thirty-first, eighteen hundred and ninety-one.

(Stats. 1897, 244, ch. CLXXXIII; amended Stats. 1905, 297, ch. CCXCIII.)

§ 1. Whenever a petition is presented to the board of supervisors of any county, and signed by twenty-five or more persons, each of whom is a resident freeholder and possessor of an orchard, stating that certain or all orchards, or nurseries, or trees or plants of any variety are infested with any serious infectious diseases, or scale insects of any kind, injurious to fruit, fruit-trees, vines, or other plants or vegetables or that there is growing therein the Russian thistle or saltwort (*Salsoli kali*, variety *tragus*), or other noxious weeds, codling moth, or other insects that are destructive to trees, and praying that a commission be appointed by them, whose duty it shall be to supervise the destruction of said scale insects, diseases or Russian thistle or saltwort, or other noxious weeds as herein provided, the board of supervisors shall, within twenty days thereafter, appoint a board of horticultural commissioners, consisting of three members, who shall be qualified for the duties of horticultural commissioner. Upon the petition of twenty-five resident freeholders and possessors of an orchard, the board of supervisors may remove any of said commissioners for cause, after a hearing of the petition. [Amendment, Stats. 1905, 297.]

§ 2. It shall be the duty of the county board of horticultural commissioners in each county, whenever it shall deem it necessary, to cause an inspection to be made of any premises, orchards, or nursery, or trees, plants, vegetables, vines, or fruits, or any fruit-packing house, storeroom, salesroom, or any other place or articles in their jurisdiction, and if found infested with infectious diseases, scale insects, or codling moth, or other pests injurious to fruit, plants, vegetables, trees, or vines, or with their eggs, or larvæ, or if there is found growing thereon the Russian thistle or saltwort, or other noxious weeds, they shall notify the owner or owners, or person or persons in charge, or in possession of the said places or orchards, or nurseries, or trees, or plants, vegetables, vines, or fruit, or articles as aforesaid that the same are infested with said diseases, insects, or other pests, or any of them, or their eggs or larvæ, or that the Russian thistle or saltwort or other noxious weeds is growing thereon, and they shall require such person or persons, to eradicate or destroy the said insects, or other pests, or their eggs or larvæ, or Russian thistle or saltwort, or other noxious weeds within a certain time to be specified. Said notices may be served upon the person or persons, or either of them, owning or having charge, or having possession of such infested place, or orchard, or nursery, or trees, plants, vegetables, vines, or fruit, or articles, as aforesaid, or premises where the Russian thistle or saltwort or other noxious weeds shall be growing, by any commissioner, or by any person deputed by the said commissioners for that purpose, or they may be served in the same manner as a summons in a civil action. Any and all such places, or orchards, or nurseries, or trees, plants, shrubs, vegetables, vines, fruit, or articles thus infested, or premises where the Russian thistle or saltwort or other noxious weeds shall be growing, are hereby adjudged and declared to be a public nuisance; and whenever any such nuisance shall exist at any place within their jurisdiction, or on the property of any non-resident, or on any property the owner or owners of which cannot be found by the county board of horticultural commissioners, after diligent search, within the county, or on the property of any owner or owners upon which notice aforesaid has been served, and who shall refuse or neglect to abate the same within the time specified, it shall be the duty of the county board of horticultural commissioners to cause said nuisance to be at once abated, by eradicating or destroying said diseases, insects, or other pests, or their eggs, or larvæ, or Russian thistle or saltwort or other noxious weeds. The expense thereof shall be a county charge, and the board of supervisors shall allow and pay the same out of the general fund of the county. Any and all sum or sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated, in pursuance of this act, and may be recovered by an action against such property and premises. A notice of such lien shall be filed and recorded in the office of the county recorder of the county in which the said property and premises are situated, within thirty days after the right to the said lien has accrued. An action to foreclose such lien shall be commenced within ninety days after the filing and recording of said notice of lien, which action shall be brought in the proper court by the district attorney of the county in the name and for the benefit of the county making such payment or payments, and when the property is sold enough of the proceeds shall be paid into the county treasury of such county to satisfy the lien and costs; and the overplus, if any there be, shall be paid to the owner of the property if he be

known, and if not, into the court for his use when ascertained. The county board of horticultural commissioners is hereby vested with the power to cause any and all such nuisances to be at once abated in a summary manner. [Amendment, Stats. 1905, 297.]

§ 3. Said county boards of horticultural commissioners shall have power to divide the county into districts, and to appoint a local inspector, to hold office at the pleasure of the commissioners, for each of said districts. The state board of horticulture may issue commissions as quarantine guardians to the members of said county board of horticultural commissioners, and to the local inspectors thereof. The said quarantine guardians, local inspectors, or members of said county boards of horticultural commissioners, shall have full authority to enter into any orchard, nursery, place or places where trees or plants are kept and offered for sale or otherwise, or any house, storeroom, salesroom, depot, or any other such place in their jurisdiction to inspect the same, or any part thereof.

§ 4. It shall be the duty of said county board of horticultural commissioners to keep a record of their official doings, and to make a report to the state board of horticulture, on or before the first day of October of each year, of the condition of the fruit interests in their several districts, what is being done to eradicate insect pests, also as to disinfecting, and as to quarantine against insect pests and diseases, and as to carrying out all laws relative to the greatest good of the fruit interest. Said board may publish said reports in bulletin form, or may incorporate so much of the same in their annual reports as may be of general interest.

§ 5. The salary of all inspectors working under the county board of horticultural commissioners shall be two dollars and fifty cents (\$2.50) per day. In the case of the commissioners themselves, their compensation shall be four dollars per day, when actually engaged in the performance of their duties, and itemized necessary traveling expenses incurred in the discharge of their regular duties as prescribed in this act.

§ 6. It shall be the duty of the county board of horticultural commissioners to keep a record of their official doings and make a monthly report to the board of supervisors; and the board of supervisors may withhold warrants for salaries of said members and inspectors thereof until such time as said report is made.

§ 7. An act entitled "An act to protect and promote the horticultural interests of the state," approved March fourteenth, eighteen hundred and eighty-one, and certain acts amendatory thereof, approved March nineteenth, eighteen hundred and eighty-nine, and March thirty-first, eighteen hundred and ninety-one, are hereby repealed.

§ 8. This act shall take effect and be in force from and after its passage.

See *County Riverside vs. Butcher*, 133 Cal. 324, 325, 63 Pac. Rep. 745.

The statute of 1891, repealed as above shown, is cited in *County Los Angeles vs.*

Spencer, 126 Cal. 670, 671, 77 Am. St. Rep. 217, 59 Pac. Rep. 202; *County Riverside vs. Butcher*, 133 Cal. 324, 325, 65 Pac. Rep. 745.

HORTICULTURE—PROTECTION.

For the protection of horticulture, and to prevent the introduction into this state of insects, or diseases or animals injurious to fruit or fruit-trees, vines, bushes, or vegetables, and to provide for a quarantine for the enforcement of this act.

(Stats. 1899, 91, ch. LXXVI; amended 1903, 32, ch. XXX.)

§ 1. Any person, persons, or corporation, who shall receive, bring, or cause to be brought into this state any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit, or vegetables, shall, within twenty-four hours after the arrival thereof, notify the state horticultural quarantine officer, or the quarantine guardian of the district or county in which such nursery stock, or fruit, or vegetables are received, of their arrival, and hold the same without unnecessarily moving the same or placing such articles where they may be harmful, for the immediate inspection of such state horticultural quarantine officer or guardian. If there is no quarantine guardian or state horticultural quarantine officer in the county where such nursery stock, or fruit, or vegetables are received, it shall then be the duty of such person, persons, or corporation to notify the state board of horticulture, who shall make immediate arrangements for their inspection. The state horticultural quarantine officer, the quarantine guardian, or such person or persons as shall be commissioned by the state board of horticulture to make such inspection, or to represent said board, are hereby authorized and empowered to enter into any warehouse, depot, or upon any dock, wharf, mole, or any other place where such nursery stock, or fruit, or vegetables, or other described articles are received, for the purpose of making the investigation or examination herein provided for.

§ 2. Each carload, case, box, package, crate, bale, or bundle of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit or vegetables imported or brought into this state, shall have plainly and legibly marked thereon in a conspicuous manner and place the name and address of the shipper, owner, or person forwarding or shipping the same, and also the name of the person, firm, or corporation to whom the same is forwarded or shipped, or his or its responsible agent, also the name of the country, state or territory where the contents were grown.

§ 3. When any shipment of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, imported or brought into this state, is found infested with injurious insects, or their eggs, larvæ, or pupæ, or [there is] reasonable cause to presume that they may be so infested, or infected with tree, plant, or fruit disease or diseases, the entire shipment shall be disinfected at the expense of the owner, owners, or agent. After such disinfection, it shall be detained in quarantine the necessary time to determine the result of such disinfection. If the disinfection has been so performed as to destroy all insects, or their eggs, and so as to eradicate all disease and prevent contagion, and in a manner satisfactory to the state horticultural quarantine officer, the quarantine guardian of the district, or the person commissioned by said board, the trees, vines, vegetables, seeds, or other articles shall then be released. [Amendment, Stats. 1903, 32.]

§ 4. When any shipment of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, imported or brought into this state,

is found infested with any species of injurious insects, or their eggs, larvæ, or pupæ, not existing in the orchards, vineyards, gardens, or farms of California, such infested shipments shall be immediately sent out of the state, or destroyed, at the option of the owner, owners, or agent, and at his or their expense.

§ 5. No person, persons, or corporation shall bring or cause to be brought into the state any peach, nectarine, or apricot trees or cuttings, grafts, scions, buds, or pits of such trees, or any trees budded or grafted upon peach stock or root that has been in a district where the disease known as "peach yellows" or the contagious disease known as contagious "peach rosette" are known to exist, and any such attempting to land or enter shall be refused entry and shall be destroyed or returned to the point of shipment, at the option of the owner, owners, or agent, and at his or other [their] expense.

§ 6. No person, persons, or corporations shall bring, or cause to be brought into this state any injurious animals known as English or Australian wild rabbit, flying fox, mongoose, or any animal or other animal or animals detrimental to horticulture and agricultural interests.

§ 7. Any person, persons, or corporation violating any of the provisions of this act is guilty of a misdemeanor.

§ 8. This act shall take effect and be in force from and after its passage.

HORTICULTURE—STATE BOARD.

To create a state commission of horticulture, to provide for a state commissioner of horticulture, and prescribe his powers, duties and compensation, and to provide methods, means and penalties for the enforcement of such powers and duties, and appropriating money for the use and support and to pay the expenses thereof, and to repeal chapter sixty-three of the laws of eighteen hundred and eighty-three, chapter seven of the laws of eighteen hundred and eighty-five, chapter eighty-six of the laws of eighteen hundred and eighty-nine, and chapter one hundred and ninety-four of the laws of eighteen hundred and ninety-one.

(Stats. 1903, 524, ch. CCCLXXIX; amended Stats. 1905, 496,
ch. CCCLXXXVIII.)

§ 1. The office of state commissioner of horticulture of California is hereby created. It shall be the duty of the governor, within forty days after the passage of this act, to appoint a citizen and resident of this state to hold said office of state commissioner of horticulture, who must at the date of his appointment be a skilled horticulturist and entomologist. The term of office shall be for four years, and until a successor is appointed and qualified. The governor may remove such commissioner from office at any time, upon filing with the secretary of state a certificate of removal signed by the governor. In case of a vacancy in said office by death, resignation, removal from office, or other cause, the governor shall fill the vacancy for the unexpired term. The salary of said commissioner shall be two hundred and fifty dollars per month, and he shall be allowed in addition a sum not to exceed five hundred dollars yearly for traveling and incidental expenses necessary in the discharge of his duties herein provided for. Such commissioner may appoint a secretary, who shall be versed in horticulture and entomology, and who shall be an experienced compiler of reports.

bulletins and such publications as may issue from said commission from time to time, and who shall perform all such duties as may be required of him by such commissioner. Such secretary of the horticultural commissioner shall receive a salary of twenty-one hundred dollars per annum. In appointing such commissioner and his successor or successors, it shall be the duty of the governor to disregard political affiliations, and to be guided in his selection entirely by the professional and moral qualifications of the person so selected for the performance of the duties of said office. The office of said commissioner shall be kept open every day except holidays, and shall be in charge of the secretary during the absence of such commissioner. The main office of such commissioner shall be at the city of Sacramento. The secretary of state shall furnish and set aside in the capitol a room or rooms suitable for offices for said commissioner, and if the secretary of state shall make and file an affidavit with said commissioner stating that it is not possible for him, as such secretary of state, to provide and set aside an office for said commissioner in the capitol or in any state building under his control, because there is no such office room or rooms available, then, and after the making and delivery of such affidavit to such commissioner, the said commissioner may rent rooms convenient and suitable for his offices under this act, at a rental not to exceed five hundred dollars per year. Said commissioner may also keep and maintain an office in the city and county of San Francisco at a yearly rental not to exceed the sum of five hundred dollars, and may appoint a deputy commissioner who shall be an expert entomologist and horticulturist, to have charge of said office under said commissioner, and to perform any and all duties which said commissioner may require of him under this act, and shall fix the monthly compensation of such deputy at two hundred dollars per month. Such deputy shall hold his position during the pleasure of such commissioner, and may be removed from his office or position at any time by said commissioner filing with the secretary of state a certificate signed by said commissioner so removing such deputy. Said commissioner may also appoint, by and with the approval of the governor, such temporary deputies from time to time as may be required for quarantine purposes under this act, and such temporary deputies shall receive such compensation per diem as may be specified in the writing so approving such appointment. If there be not sufficient furniture and office appliances turned over to such commissioner by the state board of horticulture heretofore existing, to furnish and equip properly the office or offices for such commissioner at Sacramento and San Francisco aforesaid, the said commissioner may, by and with the approval of the governor, purchase for the use of his said office or offices such furniture and appliances as may be necessary therefor, and from time to time, at an expense not to exceed a sum to be mentioned in such approval, which expense, together with all other expenses authorized by this act, is hereby allowed for the purposes specified. [Amendment, Stats. 1905, 496.]

§ 2. Upon taking office under this act such commissioner shall be entitled to receive and have turned over to him as such commissioner all the books, records, and property in the possession, charge, custody or control of the state board of horticulture heretofore existing, and all such property shall be delivered to such commissioner upon demand. Such commissioner shall be deemed for such purposes the successor of said board.

§ 3. Such commissioner shall collect books, pamphlets and periodicals and other documents containing information relating to horticulture, and shall preserve the same; collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere; correspond with horticultural societies, colleges and schools, and with the county boards of horticulture existing or that may exist in this state, and with all other persons necessary to secure the best results to horticulture in this state. He shall require reports from county boards of horticulture in this state, and may print the same or any part thereof as he may select, either in the form of bulletins or in his annual report, or both, as he shall deem proper. He shall issue and cause to be printed and distributed to county boards of horticulture in this state, and to all other persons whom he may deem proper, bulletins or statements containing all the information best adapted to promote the interest and protect the business and development of horticulture in this state. Such commissioner shall be deemed to be the state horticultural quarantine officer mentioned in chapter seventy-six of the laws of eighteen hundred and ninety-nine, for the purposes of that act, and shall be empowered to perform the duties which under that act are to be performed by the state horticultural quarantine officer; provided, that any inspection therein authorized, when made by such commissioner, must be with the approval of the governor, and as provided by this act.

§ 4. Said commissioner may, by and with the approval of the governor, establish, maintain and enforce such quarantine regulations as may be deemed necessary to protect the nurseries, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruit, vegetables, or other articles of horticulture, against contagion or infection by injurious disease, insects or pests, by establishing such quarantine at the boundaries of this state or elsewhere within the state, and he may make and enforce, with the approval of the governor, any and all such rules and regulations as may be deemed necessary to prevent any infected stock, tree, shrub, plant, vine, cutting, graft, scion, bud, fruit pit, fruit, vegetable, or other article of horticulture, from passing over any quarantine line established and proclaimed pursuant to this act, and all such articles shall, during the maintenance of such quarantine, be inspected by such commissioner or by a deputy appointed in writing by said commissioner with the approval of the governor, and he or the deputy so conducting such inspection shall not permit any such article to pass over such a quarantine line during such quarantine, except upon a certificate of inspection signed by such commissioner or in his name by such a deputy who has made such inspection, unless such article has been immediately prior to such passage inspected by an officer or agent of the United States entitled to inspect the same, and such officer or agent has granted permission for such passage. All approvals by the governor given or made pursuant to this act shall be in writing and signed by the governor in duplicate, and one copy thereof shall be filed in the office of the secretary of state and the other in the office of said commissioner before such approval shall take effect.

§ 5. Upon information received by such commissioner of the existence of any infectious disease, insect or pest, dangerous to any such article, or to the interest of horticulture within this state, or that there is a probability of the introduction of any such infectious disease, insect or pest into this state or across the boundaries thereof, he shall proceed to thoroughly investigate the same, and may, by

and with the approval of the governor, establish, maintain and enforce quarantine as hereinbefore provided, with such regulations as may be necessary to circumscribe and exterminate or eradicate such infectious diseases, insects or pests, and prevent the extension thereof, and is hereby authorized to enter upon any grounds or premises, and inspect any stock, tree, shrub, plant, vine, cutting, graft, scion, bud, fruit pit, fruit, vegetable, or other article of horticulture, or implement thereof, or box or package pertaining thereto, or connected therewith, or that has been used in packing, shipping or handling the same, and to open any such package, and generally to do, with the least injury possible under the conditions to property or business, all acts and things necessary to carry out the provisions of this act.

§ 6. Upon the discovery of any such infectious disease, insects or pests, such commissioner shall immediately report the same to all county boards of horticulture, together with a statement as to the best known means or method for circumscribing, exterminating or eradicating the same, and shall state therein specifically what treatment or method should be applied in each case, as the matter may require, with a detailed statement or prescription as to the method of making or procuring, and of applying any preparation or treatment so recommended therefor, and the times and duration for such treatment, and if chemicals or articles be required other than those usually obtainable at any town, the place or places where they are most readily to be obtained; and upon the receipt of such statement by any county board of horticulture, or any member thereof, it shall be the duty of such county board of horticulture to distribute such statement in printed form to every person owning or having charge or possession of any orchard, nursery stock, tree, shrub, or article of horticulture within their county, where it is supposed by said county board there is any danger to the interests of horticulture, and such statement must be served with or be a part of the notice to be given to the owner or owners, or person or persons, in possession of any orchard, nursery, tree, shrub, or article of horticulture, referred to, provided for, and required to be served in and by section two of chapter one hundred and eighty-three of the laws of eighteen hundred and ninety-seven, or any amendments which have been or may be made thereto.

§ 7. Whenever it shall become necessary to establish quarantine under this act, if there be any authorities or officers of the United States having authority to act in such matter, or any part thereof, the said state commissioner of horticulture shall notify such authority or officers of the United States, and co-operate as far as possible with such authorities or officers of the United States wheresoever the jurisdiction of the United States extends and is being exercised, and shall obtain, whenever desirable and possible, the assent of the proper authority or officers of the United States to the establishment or change of quarantine lines, so as to most effectively and speedily accomplish the purposes of this act. The said commissioner shall at once notify the governor of all quarantine lines established under or pursuant to this act, and if the governor approve or shall have approved of the same or any portion thereof, the governor shall issue his proclamation proclaiming the boundaries of such quarantine, and the nature thereof, and the orders, rules or regulations prescribed for the maintenance and enforcement of the same, and shall publish such proclamation in such manner as he may deem expedient to give proper notice thereof.

§ 8. The said state commissioner shall be ex officio a member of all county boards of horticulture existing or that may be created or exist in this state pursuant to law, whenever he is present and acting with said county board within the county where such county board exists, but when he is not so present in such county, acting with such county board, then the said county board shall have all the power and authority conferred on it by law, and may exercise such power by the action of the members of such county board or a majority thereof. The reports which county boards of horticulture are required by law to make, or which they may desire to make, shall, after the passage of this act, be made to the state commissioner of horticulture.

§ 9. It shall be the duty of the superintendent of state printing to print and deliver to the state commissioner of horticulture, upon the written request of said commissioner, all such bulletins, orders, rules, regulations, statements, reports, and other printed matter, as the said commissioner may deem necessary to have and use for carrying out the purposes of this act, and it shall be the duty of the secretary of state to cause to be prepared and furnished to such state commissioner all stationery, paper, blank forms, envelopes, and writing material needful and convenient for use in the office of such commissioner.

§ 10. It shall be the duty of said state commissioner to report in the month of January in each even-numbered year to the governor, and in each odd-numbered year to the legislature of this state, such matters as he may deem expedient or as may be required either by the governor or legislature, and to include a statement of all the persons employed, and of moneys expended under this act, by itemized statement thereof.

§ 11. Any person wilfully refusing to comply with orders lawfully made under and pursuant to this act shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed five hundred dollars.

§ 12. All moneys paid under this act shall be paid by the state treasurer from moneys appropriated for the support of the state commissioner of horticulture, and expenses other than the salary of the commissioner, the compensation of his clerk and deputy commissioner, as allowed and provided by this act, must be certified by the said commissioner and be approved by the state board of examiners before being audited or paid. Any moneys remaining of any appropriation heretofore made or that may be appropriated for the use or support of the state board of horticulture are hereby appropriated to the support of the state commission of horticulture, and are directed to be applied to the payment of claims and expenses under this act.

§ 13. The sum of four thousand dollars is hereby appropriated for the use and support and to pay the expenses of the state commission of horticulture for the fiscal years commencing July first, nineteen hundred and three, and July first, nineteen hundred and four, under this act.

§ 14. Chapter sixty-three of the laws of eighteen hundred and eighty-three, chapter seven of the laws of eighteen hundred and eighty-five, chapter eighty-six of the laws of eighteen hundred and eighty-nine, and chapter one hundred and ninety-four of the laws of eighteen hundred and ninety-one, are hereby repealed.

§ 15. This act shall take effect immediately.

HOSPITALS—MATERNITY.

To provide for the licensing and inspecting of maternity hospitals, lying-in asylums and homes for children; defining the duties of persons conducting the same; and the duties and powers of the county boards of health or county health officers and other health officers in relation thereto, and providing a penalty for the violation of its provisions.

(Stats. 1903, 317, ch. CCXXXIX.)

§ 1. Any person who, without first having obtained a license in writing so to do from the county board of health or county health officers, as hereinafter provided, manages, conducts, establishes or maintains within any county or city and county in this state any maternity hospital or lying-in asylum where females may be received, cared for or treated during pregnancy, or during or after delivery; or manages, conducts, establishes or maintains within any county or city and county in this state any institution, boarding-house, home or other place for the reception or care of children, or keeps, at any such place, any child under the age of twelve years, not his relative, apprentice, or ward, without legal commitment; or neglects, refuses or omits to comply with the provisions of this act, or who violates the provisions of such act, is guilty of a misdemeanor.

§ 2. For such places within the limits of their respective territorial jurisdictions, the county board of health in all counties or city and county governments, having a county board of health, and in all other counties or city and county governments, the county health officer shall have power to issue licenses, and every such license must specify the name and residence of the person so undertaking the care of such females or children; and the location within the county or city and county of the place where the same are kept and the number of females or children thereby allowed to be received, boarded or kept therein, and shall be revocable for cause by the said county board of health or county health officer, as the case may be, in any case where the provisions of this act are violated, or in any case where, in the opinion of such county board of health or such county health officer, such hospital, asylum, institution, home, boarding-house or other place is being managed, conducted or maintained without proper regard for the health, comfort or morality of the inmates thereof, or without due regard of proper sanitation or hygiene.

§ 3. Every person so licensed must keep a register, wherein he shall enter the names and addresses of all such females, the names and ages of all such children, and of all children born on the premises, and the names and residences of their parents, so far as is known, and the time of the reception and discharge of such children and the reasons therefor, and also the name and age of every child who is given out, adopted, taken away, or indentured from such place, to or by any person, together with the name and residence of the person so adopting, taking away or indenturing such child; and within forty-eight hours after such child is so given out, taken away or indentured, shall cause a correct copy of the register relating to such child to be sent to the county board of health or county health officer, as the case may be.

§ 4. It shall be lawful for the officers and representatives of such county board of health, or for such county health officers and their representatives, and for all health officers, at all reasonable times, to enter and inspect the premises

wherein such females and children are so boarded, received or kept, and to call for and inspect the license and the register and also to see and visit such children and females.

See San Francisco Charter, Stats. 1899, 249-342.

HOTELS AND LODGING-HOUSES.

See tits. Gas—Illuminating; Lodging-Houses.

HOURS OF LABOR.

See tits. Children; Public Works.

HOUSE OF CORRECTION.

To provide for the commitment of persons to.—Stats. 1885, 34, ch. XXXI.

It seems possible that proceedings could occur under this statute. But see San Fran-

cisco Charter, Stats. 1899 (powers of supervisors); and see tits. *School of Industry*; *State Reform School*.

HUMBOLDT BAY.

To grant to the United States certain tide lands, belonging to the state of California, for the purpose of improving the harbor of Humboldt Bay.

(Stats. 1887, 59, ch. LI.)

§ 1. For the purpose of enabling the government of the United States to construct a breakwater and otherwise improve the entrance to Humboldt Bay, the state of California hereby grants to the government of the United States certain tide lands hereinafter described; and the governor of the state is hereby authorized and directed to cause to be executed a patent from the state of California conveying said lands to the United States.

§ 2. The lands referred to in section one of this act are located in Humboldt County, and described as follows: Beginning at the southwest corner of the northwest quarter of section seven, township four, range one west, Humboldt meridian, and running north seven and twenty-two one hundredths chains, to the high-water line; thence north, sixty-seven degrees forty minutes east, sixteen and sixty-one one hundredths chains, thence north fifty-seven degrees west, nine chains, thence north seventy-six degrees forty minutes east, twelve chains; thence south eighty-four degrees fifty-five minutes east, eleven chains; thence north seventy-two degrees twenty minutes east, fourteen chains; thence south seventy-three degrees thirty-two minutes east, five chains; thence south twenty-two degrees fifty-five minutes west, two chains; thence south twenty-six degrees twenty-five minutes west, eight and fifty one hundredths chains; thence north thirty-three degrees twenty minutes west, to the high-water line; thence north twenty-three degrees seventeen minutes east, five and fifteen one hundredths chains; thence north fifteen degrees west, four and fifty-four one hundredths chains; thence south eighty-two degrees twenty-five minutes west, twenty-five and forty-five one hundredths chains, to the point of beginning, and containing twenty-four and twenty-five one hundredths acres, more or less.

§ 3. This act shall take effect immediately.

See next two following statutes.

HUMBOLDT BAY—BREAKWATER.

To grant to the United States certain tide lands belonging to the state of California, for the purpose of improving the harbor of Humboldt Bay.

(Stats. 1889, 201, ch. CLXVI.)

§ 1. For the purpose of enabling the government of the United States to construct a breakwater, and otherwise improve the entrance to Humboldt Bay, the state of California hereby grants to the government of the United States certain tide lands hereinafter described; and the governor of the state is hereby authorized and directed to cause to be executed a patent from the state of California conveying said lands to the United States.

§ 2. The lands referred to in section one of this act are located in Humboldt County, California, and described as follows: Beginning at a granite monument marked U. S. E. 1, on the high-water line of the Pacific Ocean, situated north seven and twenty-two hundredths chains; thence south sixty-seven degrees forty minutes east, sixteen and sixty-one hundredths chains; from the southwest corner of the northwest quarter of section seven, township four north, range one west, Humboldt meridian, and running north fifty-seven degrees west, nine chains; thence north seventy-six degrees forty minutes east, twelve chains; thence south eighty-four degrees fifty-five minutes east, eleven chains; thence north seventy-two degrees twenty minutes east, fourteen chains; thence south seventy-three degrees thirty-two minutes east, five chains; thence south twenty-two degrees fifty-five minutes west, ten chains; thence south twenty-six degrees twenty-five minutes west, eight and fifty hundredths chains; thence north thirty-three degrees twenty minutes west, two and eleven hundredths chains, to a granite monument marked U. S. E. 3; thence north twenty-three degrees seventeen minutes east, five and fifteen hundredths chains, to a granite monument marked U. S. E. 4; thence north fifteen degrees west, four and fifty-four hundredths chains; thence south eighty-two degrees twenty-five minutes west, twenty-five and forty-five hundredths chains, to the point of beginning, and containing twenty-four and twenty-five one hundredths acres, more or less.

§ 3. This act shall take effect immediately.

See next following statute.

HUMBOLDT BAY.

Authorizing the governor and the attorney-general to purchase for the state of California certain lands in Humboldt Bay, and making an appropriation therefor.

(Stats. 1899, 166, ch. CXXXI.)

§ 1. There is hereby appropriated, out of any money in the state treasury not otherwise appropriated, the sum of thirteen thousand dollars, to be paid to the governor and attorney-general, and to be expended by them, or so much thereof as may be necessary, in purchasing for the state of California, and in its name, the following described real property, to wit:

Beginning at a point twenty chains west of the center of section fifteen, township five north, of range one west, Humboldt base and meridian; thence south

twenty-eight and seventy-nine one hundredths chains to the center of a slough; thence following the center of said slough north fifty-five degrees east, one and ninety-four one hundredths chains; north seventy-three degrees east, ten and sixty-one hundredths chains; south eighty-six and one half degrees east, six and fifty-nine hundredths chains; north fifty-four and one half degrees east, two and forty-two one hundredths chains, to the west line of the old D. R. Jones property; thence south four and fifteen one hundredths chains; thence south fifty-one and one half degrees west, twenty and forty-eight one hundredths chains, along the back line of the Excelsior Redwood Company; thence south thirty-eight and one half degrees east, four and seventy one hundredths chains, to the outside line of tide and survey number sixty-six; thence south sixty-one and one quarter degrees west, seven and seventy-five one hundredths chains to one eighth section line; thence south thirteen one hundredths chains; south seventy-three and one quarter degrees west, five and seventy one hundredths chains; south seventy-six degrees west, fifteen and ten one hundredths chains, to section line and west end of tide land survey number sixty-nine; thence north one chain; thence south seventy-six and one half degrees west, five and twenty-three one hundredths chains; north forty and one half degrees east, eleven and fifty-two one hundredths chains; north thirty-three degrees west, two and sixty one hundredths chains; north twenty-four and three quarters degrees east, thirty-two and sixty-five one hundredths chains; north five and one half degrees east, five and ninety one hundredths chains; north thirty-six and one half degrees east, eight chains, to the place of beginning, containing seventy-nine and sixty-seven one hundredths acres.

Also swamp and overflowed survey number one hundred and forty-one.

Township five north, range one west, Humboldt meridian. Island being the fractional south half of the southwest quarter and fractional southwest quarter of southeast quarter of section fourteen, and containing twenty and twenty-three one hundredths acres, and more particularly described on field-notes as beginning at a point fourteen and eight one hundredths chains east of the southwest corner of section fourteen, township five north, range one west, Humboldt meridian; thence north sixty degrees east, fourteen and twenty-six one hundredths chains; north eighty-one and one half degrees east, thirteen and forty-five one hundredths chains; north forty-one degrees east, six and forty one hundredths chains; north twenty and one half degrees east, four and seventy one hundredths chains; north eighty-five degrees west, twelve and sixty-seven one hundredths chains; south sixty-two and one half degrees west, twelve and ninety one hundredths chains; south thirty-three and one half degrees west, thirteen and forty-three one hundredths chains, to the place of beginning, containing twenty and twenty-three one hundredths acres.

§ 2. The state controller is hereby authorized and directed to draw his warrant for the amount appropriated in section one of this act upon the execution of deeds conveying said land, and the state treasurer is hereby directed to pay the same.

§ 3. This act shall take effect and be in force from and after the first day of January, nineteen hundred.

HUMBOLDT COUNTY—JUDGE.

To provide for the appointment and election of one additional judge for the county of Humboldt.

(Stats. 1895, 27, ch. XIX.)

§ 1. Within ten days after the passage of this act the governor shall appoint one additional judge of the superior court of the county of Humboldt, who shall hold office until the first Monday after the first day of January, anno Domini eighteen hundred and ninety-seven; and at the next general election, and at the general election every six years thereafter, one judge of said court in addition to the present number provided by law for said county shall be elected, to hold office for the term prescribed by the constitution and by law.

§ 2. The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as that of the other judge of the superior court of said county now authorized by law.

§ 3. This act shall take effect immediately from and after its passage.

As to Humboldt County, see tits. **Hunting on Private Property; Mad River.**

HUNTING—PRIVATE PROPERTY.

To prevent hunting and shooting on private inclosed grounds, and the destruction of growing timber on private grounds in certain counties in this state.

(Stats. 1871-2, 304, ch. CCXXVII; amended 1873-4, 792, ch. DLVIII.)

§ 1. It shall not be lawful for any person or persons to enter upon any inclosed lands belonging to or occupied by another for the purpose of hunting with dogs, or to shoot, kill, take, or destroy any kind of game, or to enter upon private lands, whether inclosed or not, for the purpose of felling or destroying trees to extract honey or [for] other purposes, without first having obtained permission from the owner or agent of such owner or possessor.

§ 2. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punished upon conviction by a fine of not less than ten (10) dollars nor more than two hundred (200) dollars, or imprisonment in the county jail for a term of thirty days, or by both such fine and imprisonment.

§ 3. This act shall apply only to the counties of Alameda, San Mateo, Marin, San Bernardino, San Diego, Colusa, Sacramento, Sonoma, Nevada, Humboldt, Los Angeles, Santa Barbara, Contra Costa, San Luis Obispo, and Mendocino. [Amendment, Stats. 1873-4, 792.]

§ 4. This act shall take effect from and after its passage.

See tits. **Fences; Hunting; Fire—Contiguous Owners; Fire on Public Lands.**

The statute of 1875-6, 408, relating to camp-fires and hunting on private property, and 1891, 473, relating to fire on contiguous property, were partly if not entirely carried into the Penal Code by Stats. 1905, 758. See **KERR'S CYC. PEN. CODE** §§ 384a, 384b, and 384c.

It may be that the statutes are repealed by implication.—See *Stephens vs. Southern Pac. Co.*, 109 Cal. 86, 95, 50 Am. St. Rep. 17, 41 Pac. Rep. 783, 29 L. R. A. 751; and see *Seabridge vs. McAdam*, 108 Cal. 345, 347, 41 Pac. Rep. 409.

Damages.—See **KERR'S CYC. CIV. CODE** § 3346, and **KERR'S CYC. CODE CIV. PROC.** § 733.

ICE.

See tit. **State Board Health.**

IDIOTS.

See tit. Children—Feeble-Minded.

ILL-FAME—HOUSES OF.

See tits. Asiatics; Married Women; Prostitution.

See **KERR'S CYC. PEN. CODE** § 315; Stats. 1873-4, 84.

INCLOSED PROPERTY.

See tits. Fences; Fire; Hunting.

INDEX TO LAWS OF CALIFORNIA.

Authorizing the superintendent of state printing to have prepared and printed an index to all the laws of California, 1850-1893.

(Stats. 1893, 150, ch. CXXXVI.)

§ 1. The superintendent of state printing is hereby authorized and directed to have prepared and printed a complete index to all the laws of California, eighteen hundred and fifty to eighteen hundred and ninety-three, both dates inclusive.

§ 2. There shall be printed the same number of copies of the index as is printed of the statutes of California, and the distribution and sale of the same shall be made under the laws governing the distribution and sale of the statutes of California.

§ 3. The cost of compilation and printing of the index shall be paid out of the appropriation made for the support of the state printing office.

§ 4. This act shall take effect from and after its passage.

INDIANS.

Reference is here made to certain legislation, some of which does not appear to be specifically repealed.—Stats. 1850, 408; 1855, 179; 1860, 196; 1863, 743, 755. See *People vs. Antonio*, 27 Cal. 404.

Sale of liquor to.—See **KERR'S CYC. PEN. CODE** § 397.

As to vagrants, see *Id.* § 647.

Sale of arms to.—1854, 24. See **KERR'S CYC. PEN. CODE** § 398.

INDIAN RESERVATIONS.

See tit. Lands.

INDIGENT PERSONS.

To provide for the maintenance and support, in certain cases, of indigent, incompetent, and incapacitated persons (other than persons adjudged insane and confined within state hospitals), becoming a public charge upon the counties, or cities and counties, within the state of California, and for the payment thereof into a fund for the maintenance and support of such persons.

(Stats. 1901, 636, ch. CCX.)

§ 1. Every county and every city and county shall relieve and support all pauper, incompetent, poor, indigent persons and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not sup-

ported and relieved by their relatives or friends, or by their own means, or by state hospitals or other state or private institutions.

§ 2. The term residence as used in this act shall be taken to mean and shall be considered to mean the actual residence of each of such persons, or the place where each such person was employed, or in case such person was in no employment, then it shall be considered and held to be the place where such person made his or her home, or his or her headquarters.

§ 3. Every person, firm or corporation, or the officers, agents, servants, or employees of any person, firm or corporation, bringing into or leaving within, or procuring the bringing into or the leaving within, or aiding in the bringing into or the leaving within, of any pauper or poor or indigent or incapacitated or incompetent person as hereinbefore mentioned, in any county or city and county in the state of California, wherein such person is not lawfully settled or not lawfully residing as herein defined, knowing him to be such pauper, poor, indigent, or incapacitated or incompetent person, shall be guilty of a misdemeanor.

§ 4. If any person shall become chargeable as a pauper, or poor, or indigent, or incapacitated, or incompetent person as herein designated, in any county, or city and county, who did not reside therein (as herein specified) at the commencement of three months immediately preceding his becoming so chargeable, but did at that time reside (as herein specified) in some other county, or city and county in this state, it shall be the duty of the county clerk of said first-mentioned county or city and county to send written notice by mail or otherwise to the county clerk of the county or city and county in which such person so resided, requesting the proper authorities of such county or city and county to remove such person forthwith, and to pay the expenses accruing or to accrue, in taking care of such person; and such county or city and county, wherein such person resided at the commencement of the three months immediately preceding such person's becoming chargeable as a poor, indigent, or incapacitated, or incompetent person as herein designated, shall pay to the county or city and county so taking care of such person all reasonable charges for the same, and such amount may be recovered by suit in any court of competent jurisdiction by such county or city and county.

§ 5. It shall be the duty of the superintendent of any county hospital or almshouse in any county or city and county in this state, or his subordinates, immediately upon receiving any person into such hospital or almshouse as a public charge, such person being poor, indigent, or incapacitated, or incompetent as herein defined, or any registrar of charities or of any charity supported by public funds or aided in part by public funds, aiding such person, to make diligent inquiry into the ability of such person or of his relatives as hereinafter mentioned to bear the actual charges and expenses of the maintenance and support of such person, and to forthwith notify the district attorney of such county or city and county, or the city and county attorney thereof, and the board of supervisors of such county or city and county, of the result of such inquiry.

§ 6. In case such person shall be or shall thereafter become the owner of property, real, personal, or mixed, it shall be the duty of the district attorney of the county, or city and county, or the city and county attorney thereof, in which

such person shall become a public charge, in whole or in part, to cause the entire or partial support as hereinafter provided to be fixed, of such person to be made out of such property, and to that end shall procure by suit or otherwise the assignment and payment for such purpose of all annuities and pensions; and in case such person shall be incompetent or a minor, within the provisions of the codes relating to the guardianship of the persons and estates of incompetent persons and minors, it shall be the duty of the district attorney of such county, or city and county, or the city and county attorney thereof, to apply to the proper court for the appointment of a general guardian of the person and estate or either, of such person or minor. Such application and appointment shall be made in the manner as provided by the codes of this state for the application for the appointment of guardians of infants and incompetent persons, and all proceedings thereunder, except as herein expressly declared otherwise, shall be in accordance with such provisions of said codes, and the public support of such minor or such incompetent shall be deemed one of the grounds for which an application may be made on behalf of such person for the sale of his property, as in the Code of Civil Procedure provided. From the proceeds of the property of said person or from such other funds as such guardian may obtain, or from such funds as the district attorney of the county, or the city and county, or the city and county attorney thereof, may be able to collect, there shall be paid into the county treasury of the county, the sum per month fixed by the board of supervisors of such county or city and county, quarterly in advance, for the maintenance and support of any such person or pauper; and there shall also be paid out of the proceeds of such sale or such other funds, such clothing and other supplies as may have been furnished to such person or pauper.

If any pauper, indigent, poor, incompetent or incapacitated person has kindred of the degree of husband, wife, children (other than minors), father or mother, brother or sister, grandchildren, or grandparents living within this state, of sufficient pecuniary ability, such kindred in the order above named shall support such person by paying into the county treasury of such county, the sum per month fixed on by the board of supervisors, quarterly in advance, for the maintenance and support of such pauper, indigent poor, incompetent or incapacitated person, and shall in the order above named, also pay for the clothing and other supplies, if any, furnished to such person. And if it shall be that the relatives liable as aforesaid are not of sufficient ability wholly to maintain such poor person or pauper, but are able to contribute something, they shall be required to pay a sum in proportion to their ability.

§ 7. Upon the failure on the part of said kindred to perform such duty, an action shall be brought by the district attorney of the county or the city and county, or the city and county attorney thereof, in the name of the county or city and county, against said kindred in the order above named. And such action shall be prosecuted as are all other actions for the recovery of money in this state.

§ 8. If there be in the hands of any guardian of any such person or in the hands of any officer of said county upon the discharge or death of said person, any funds, the same shall be refunded after the payment of all the claims of the said county or city and county thereon and of the funeral expenses, in case of death of such person.

§ 9. All moneys derived in accordance with the provisions of this act shall

be paid into such fund of the county or city and county as is used for the support and furtherance of the care of the persons hercin referred to.

§ 10. This act shall take effect immediately.

The statute of 1883, 380, ch. XCVI, on this subject was repealed by Stats. 1895, 23. The following decisions are noted respecting the former statute: San Francisco vs. Dunn, 69 Cal. 73, 74, 10 Pac. Rep. 191; County Yolo vs. Dunn, 77 Cal. 133, 134, 19 Pac. Rep. 262;

Orange County vs. Los Angeles County, 114 Cal. 390, 395, 46 Pac. Rep. 173; Power vs. May, 123 Cal. 147, 151, 55 Pac. Rep. 796.

The present statute of 1901 is cited in People vs. Shearer, 143 Cal. 66, 69, 70, 76 Pac. Rep. 813.

INFANTS.

See tits. Children; Blindness in Infants.

INJUNCTION.

See tit. Employers and Employees.

INNKEEPERS.

See tits. Children; Gas; Intoxicating Liquors; Lodging-Houses.

INSANE ASYLUMS.

AN ASYLUM FOR INSANE was established at Stockton by Stats. 1853, 203. Another was established at Napa by Stats. 1871-2, 673; another at Agnews by Stats. 1885, 35; another at Mendocino by Stats. 1889, 25, and a fifth near San Bernardino, in Southern California, by Stats. 1889, 120.—The Newport etc. Co. vs. Drew, 125 Cal. 585, 592, 58 Pac. Rep. 187.

Much of the subject was carried into the Political Code, tit. V, ch. I, although the several acts establishing the several institutions and the necessary appropriations for furnishing and maintaining them occupy a conspicuous space in the legislation of the past thirty years.

In 1897 (Stats. pp. 311-333) a uniform system for the management of those institutions was provided. That statute was under review by the supreme court in the following cases: Secs. 13, 14, art. III, and ch. VI, tit. X, pt. II of Penal Code, §§ 1367-1373, involving inquiry into the sanity of a person charged with crime, in Gardner vs. Jones, 126 Cal. 614, 59 Pac. Rep. 126; In re Buchanan, 129 Cal. 330, 332, 61 Pac. Rep. 1120, 50 L. R. A. 378; Matter of Robinson, 138 Cal. 491, 71 Pac. Rep. 690; Matter of Everett, 138 Cal. 490, 71 Pac. Rep. 566.

Local trustees were held not abolished by the Statute of 1897, by which such boards are designated as "managers," and the right to bring actions for recovery of sums due the institutions, under § 13 of art. II of the Stats. 1897, and §§ 8, 9 of Stats. 1889, 329, is reviewed in Napa State Hospital vs. Flaherty, 134 Cal. 315, 66 Pac. Rep. 322; Napa State Hospital vs. Yuba County, 138 Cal. 378, 71 Pac. Rep. 450.

In Matter of Lambert, 134 Cal. 626, 86 Am. St. Rep. 296, 66 Pac. Rep. 851, 55 L. R. A. 856, it is held that the provisions of article III of the Statute of 1897, in so far as

they purport to authorize the arrest and detention of a person on a charge of insanity without providing a hearing to such person, are unconstitutional.

In Sponogle vs. Curnow, 136 Cal. 580, 69 Pac. Rep. 255, it was held that the statute of 1897 was designed as a complete revision and substitute for all previous acts relating to the same subject, and that no term of office having been fixed for the office of medical superintendent, the board of managers had power, under section 16 of article XX of the constitution to remove a superintendent at its pleasure. Upon the language of this decision it will be assumed that the new act of 1903 (Stats. pp. 485-514), repealing the statute of 1897, is now the law governing the subject of insane. Following is its title: "To repeal chapter I of title V of part III of the Political Code, and to substitute therefor a new chapter I, to define the powers and duties of the state commission in lunacy, to provide for the government and management of state hospitals for the insane and other incompetent persons, and to provide for the care, custody, apprehension, commitment, and maintenance of insane and other incompetent persons and escapes." Stats. 1903, 485, ch. CCCLXIV: Watt vs. Smith (pay patients), 89 Cal. 602, 603, 26 Pac. Rep. 1071; Napa State Hospital vs. Flaherty, 134 Cal. 315, 316, 66 Pac. Rep. 322; Kellogg vs. Cochran, 87 Cal. 192-198, 26 Pac. Rep. 677, 12 L. R. A. 104; Ex parte Whitwell, 98 Cal. 73, 80, 35 Am. St. Rep. 152, 32 Pac. Rep. 870, 19 L. R. A. 727; People vs. Geiger, 116 Cal. 440, 441, 48 Pac. Rep. 389. See **KERR'S CYC. POL. CODE** §§ 2136-2199, as amended in 1903. Stats. p. 485. And compare § 2189, **KERR'S CYC. POL. CODE**, and § 1766, **KERR'S CYC. CODE CIV. PROC.**, and Stats. 1900-1, 639, following this note.

INSANE—RESTORATION.

To provide for restoration to capacity of persons adjudged to be insane, who have no guardians and who are not confined at state hospitals for the insane.

(Stats. 1901, 639, ch. CCXI.)

§ 1. Whenever any person duly adjudged to be insane has been duly committed to a state hospital for the insane under the provisions of any law of this state, and for whom no guardian has been appointed, and who is absent from the hospital to which he was committed or transferred under the order of commitment, on parole or leave of absence granted by the medical superintendent thereof, or who has been discharged therefrom as improved by said superintendent as provided by subdivision two, section fourteen, article three, of the insanity law of California, approved March thirty-first, eighteen hundred and ninety-seven, is desirous of being declared sane and restored to legal capacity, said insane person or a relative or friend on his behalf may make application in writing to said medical superintendent to be declared sane. On receiving such application, said medical superintendent may make such examination of such person and require such proof as he may reasonably deem necessary to determine whether or not such person is sane. For the purpose of making such examination said superintendent may also require said person to present himself at the hospital for examination. If on making such examination and receiving such proofs as he deems reasonably necessary said medical superintendent shall be satisfied that said person is sane and has recovered his reason, said medical superintendent shall issue to said person his certificate that such person is sane, and recovered and restored to reason. A copy thereof, duly certified, shall be immediately forwarded to the state commission in lunacy, who shall file the same in their office. A copy thereof shall also be filed at said hospital and a proper record made thereof.

§ 2. If said medical superintendent is unwilling or refuses, however, to issue a certificate of recovery upon application as in section one provided, he shall so certify in writing, giving his reasons therefor, and said insane person or a relative or friend in his behalf may make application, by petition duly verified, to a judge of the superior court of the county where such insane person resides to be declared sane. Notice of the hearing of said application shall be given in the manner directed by a judge of said court, to said medical superintendent, and to such relative or relatives of such insane person residing in the county as the judge may direct, who may have opportunity to appear and be heard on the hearing of said application. Such hearing shall be conducted as are civil cases, and on demand of the petitioner the question of the insanity of such person may be tried by a jury, as in civil cases. If on the hearing of said application the court is satisfied from the proofs produced or if a jury trial is had, and the jury shall render a verdict that such person is sane, the court shall by order adjudge such person to be sane. Said order shall be filed and recorded in the office of the county clerk and certified copies thereof shall be sent by said clerk and filed with the state commission in lunacy and also with the superintendent of the hospital from which said insane person was paroled, granted leave of absence, or discharged as improved. If said matter is tried by a jury the cause against said insane person shall be represented by the district attorney of the

county. From a decision of the court or verdict of the jury finding the said person insane an appeal may be taken as in civil cases. If three fourths of the jury fail to declare said person sane, or the court or the jury shall find such person to be insane, said proceeding shall be dismissed and no new application to declare such person sane shall be made for six months thereafter.

§ 3. Whenever any person who has been adjudged to be insane, who has not been committed to a state hospital for the insane, and who has no guardian, and who is desirous of being declared sane and restored to legal capacity, said insane person or a relative or friend on his behalf may, by petition duly verified, make application to a judge of the superior court where he resides to be declared sane; said judge shall fix a time for the hearing of said application, and he may, by order, direct that notice of said hearing be given in the manner and to such relative or relatives of said person residing in the county where such application is made, as the judge may direct, who shall have opportunity to appear and be heard at said hearing. Such hearing shall be conducted as are civil cases, and on demand by the petitioner may be tried before a jury as are civil cases. If on said hearing the decision of the court or the verdict of the jury is that such person is insane, an appeal may be taken to the supreme court as in civil cases. If the court shall decide or the jury shall render a verdict declaring said person to be sane, the court shall make an order declaring said person to be sane. If three fourths of the jury fail to unite in a verdict, or the court or jury shall decide that such person is insane, such proceeding shall be dismissed, and no new application to have such person declared sane shall be made for six months thereafter.

§ 4. Before any order is made or any proceedings are taken for a trial by jury, the person demanding the same shall make a deposit, or give a bond, to be approved by a judge of the superior court where proceedings are had, for the payment of all costs of such trial, unless, in the opinion of said judge, the insane person in whose behalf said trial is demanded is a poor or indigent person.

§ 5. The certificate of recovery by the medical superintendent, the order of the judge or the verdict of a jury and the order of the judge as in this act provided, shall have the same legal effect as a discharge as recovered made under the provisions of subdivision one of section fourteen, article three of the insanity law of eighteen hundred and ninety seven, and shall be prima facie evidence of the sanity of such person.

§ 6. All acts and parts of acts in conflict with this act are hereby repealed.

§ 7. This act shall take effect immediately.

INSECTS—PESTS.

See tits. **County Government Act 1897** (subd. 26, § 25); **Horticulture; Paris Green; University of California; Viticultural Commission.**

INSOLVENCY.

For the relief of insolvent debtors, for the protection of creditors, and for the punishment of fraudulent debtors.

(Stats. 1895, 131, ch. CXLIII; amended 1897, 35, ch. XXXVIII.)

ARTICLE I.

GENERAL SUBJECT OF THE ACT.

§ 1. Every insolvent debtor may, upon compliance with the provisions of this act, be discharged from his debts and liabilities. This act shall be known and may be cited as the Insolvent Act of eighteen hundred and ninety-five.

ARTICLE II.

VOLUNTARY INSOLVENCY.

§ 2. An insolvent debtor, owing debts exceeding in amount the sum of three hundred dollars, may apply by petition to the superior court of the county, or city and county, in which he has resided for six months next preceding the filing of his petition, to be discharged from his debts and liabilities. In his petition he shall set forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, and his desire to obtain a discharge from his debts and liabilities, and shall annex thereto a schedule and inventory, and valuation, in compliance with the provisions of this act. The filing of such petition shall be an act of insolvency, and thereupon such petitioner shall be adjudged an insolvent debtor.

§ 3. Said schedule must contain a full and true statement of all his debts and liabilities, exhibiting to the best of his knowledge and belief to whom said debts or liabilities are due, the place of residence of his creditors, and the sum due each; the nature of the indebtedness or demand, whether founded on written security, obligation, contract, or otherwise; the true cause and consideration thereof, and the time and place when and where such indebtedness accrued, and a statement of any existing pledge, lien, mortgage, judgment, or other security for the payment of the same; also, an outline of the facts touching any liability, directly or indirectly, in the nature of any right of action against the insolvent by any one.

§ 4. Said inventory must contain an accurate description of all the estate, both real and personal, of the petitioner, including his homestead, if any, and all property exempt by law from execution, and where the same is situated, and all encumbrances thereon; also, an outline of the facts touching any right of action in favor of the insolvent against any one.

§ 5. The petition, schedule, and inventory must be verified by the affidavit of the petitioner annexed thereto, and shall be in form substantially as follows: I, ———, do solemnly swear that the schedule and inventory now delivered by me contain a full, perfect, and true discovery of all the estate, real, personal, and mixed, goods and effects, to me in any way belonging; all such debts as are to me owing, or to any person or persons in trust for me, and all securities and contracts, and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me or to my use, or to any other person or persons in trust for me; that the schedule and inventory, respectively, contain

a clear outline of the facts touching any known right of action against me by any one, and an outline of the facts touching all rights of action in my favor against any one; that I have no lands, money, stock, or estate, reversion, or expectancy, besides that set forth in my schedule and inventory; that I have in no instance created or acknowledged a debt for a greater sum than I honestly and truly owe; that I have not, directly or indirectly, sold, or otherwise disposed of, or concealed, any part of my property, effects, or contracts; that I have not in any way compounded with my creditors whereby to secure the same, or to receive or to expect any profit or advantage therefrom, or to defraud or deceive any creditor to whom I am indebted in any manner. So help me God.

§ 6. Upon receiving and filing such petition, schedule, and inventory, the court shall make an order declaring the petitioner insolvent, and directing the sheriff of the county, or city and county, to take possession of all the estate, real and personal, of the debtor, except such as may be by law exempt from execution, and of all his deeds, vouchers, books of account, and papers, and to keep the same safely until the appointment of an assignee. Said order shall further forbid the payment of any debts and the delivery of any property belonging to such debtor, to him, or for his use, and the transfer of any property by him; and shall further appoint a time and place for a meeting of the creditors, to prove their debts and choose an assignee of the estate, and shall designate a newspaper of general circulation published in the county, or city and county, in which the petition is filed, if there be one, and if there be none, in a newspaper published nearest to such county, or city and county, in which publication of such order shall be made. The time appointed for the election of an assignee shall not be less than eight nor more than ten days from the date of the order of adjudication. Upon the granting of said order, all proceedings against the said insolvent shall be stayed. When a receiver is appointed or an assignee chosen, as provided for in this act, the sheriff shall thereupon deliver to such receiver or assignee, as the case may be, all the property and assets of the insolvent which have come into his possession, and shall be allowed and paid as compensation for his services the same expenses and fees as would by law be collectable if the property had been levied upon and safely kept under attachment.

§ 7. A copy of said order shall immediately be published by the clerk of said court, in a newspaper designated therein, as often as said newspaper is printed before the meeting of creditors, and be served by the clerk forthwith by the United States mail, postage prepaid, or personally, on all creditors named in the schedule. There shall be deposited in addition to the usual cost of commencing such proceedings a sum of money sufficient to defray the cost of the publication ordered by the court, and ten cents for each copy, to be mailed to or served on the creditors, which latter sum is hereby constituted the legal fee of the clerk for the mailing or service required in this section.

§ 8. No claim shall be entitled to a vote for the election of an assignee, unless such claim shall be placed on file in the office of the clerk of the court in which the proceedings are pending, at least two days prior to the time appointed for the election of an assignee. All claims shall be established by a statement, showing the amount and nature of the claim, and security, if any; such statement to be verified by the claimant, his agent or attorney; provided,

no claim barred by the statute of limitations shall be proved or allowed against the estate of an insolvent debtor for any purpose. Any person interested in the estate of the insolvent may file exceptions to the legality or good faith of any claim, by setting forth specifically in writing his interest in the estate, and the grounds of his objection to such claim; such specifications of exceptions to be verified by the affidavit of the party objecting, his agent or attorney, setting out among other things that such exceptions are not made for the purpose of delay, or otherwise than in good faith in the best interest of said estate. Such exceptions to be filed with the clerk of the court at least one day before the time appointed for the election of an assignee; and such exception shall be heard and disposed of by the court, on affidavit or other evidence, in a summary manner, before the election of an assignee. But the decision of the court upon the exceptions as to whether the claimant shall be entitled to vote for an assignee shall not be conclusive upon the right of the party to participate in the assets of the insolvent, the enforcement of such right being subject to the laws of the state touching the establishment of claims against the estates of insolvents in case of dispute. No creditor or claimant, who holds any mortgage, pledge, or lien of any kind whatever, as security for the payment of his claim, shall be permitted to vote any part of his secured claim in the election of assignee, unless he shall first have the value of such security fixed as provided in section forty-eight of this act, or surrender to the sheriff or receiver of the estate of the insolvent, if any receiver, all such property so mortgaged or pledged, or assign such lien to such receiver or sheriff; such surrender or assignment of security or lien to be for the benefit of all creditors of the estate of the insolvent. The value of such security, if fixed by the court, shall be so fixed at least one day before the day appointed for the election of an assignee; in which event the claimant may prove his demand, as provided in this section, for any unsecured balance subject to the same exceptions as all other claims. [Amendment, Stats. 1897, ch. 38.]

ARTICLE III.

INVOLUNTARY INSOLVENCY.

§ 9. An adjudication of insolvency may be made on the petition of five or more creditors, residents of this state, whose debts or demands accrued in this state, and amount in the aggregate to not less than five hundred dollars; provided, that said creditors, or either of them, have not become creditors by assignment within thirty days prior to the filing of said petition. Such petition must be filed in the superior court of the county, or city and county, in which the debtor resides or has his place of business, and must be verified by at least three of the petitioners, setting forth that such person is about to depart from this state, with intent to defraud his creditors, or being absent from the state with such intent, remains absent; or conceals himself to avoid the service of legal process; or conceals, or is removing, any of his property to avoid its being attached or taken on legal process; or being insolvent, has suffered his property to remain under attachment, or legal process, for three days: or has confessed or offered to allow judgment in favor of any creditors; or wilfully suffered judgment to be taken against him by default; or has suffered or procured his property to be taken on legal process, with intent to give a

preference to one or more of his creditors; or has made any assignment, gift, sale, conveyance, or transfer of his estate, property, rights, or credits, with intent to delay, defraud, or hinder his creditors; or in contemplation of insolvency, has made any payment, gift, grant, sale, conveyance or transfer of his estate, property, rights, or credits; or has been arrested and held in custody by virtue of any civil process of court founded on any debt or demand; and such process remains in force, and not discharged by payment, or otherwise, for a period of three days; or being a merchant or tradesman, has stopped or suspended, and not resumed payment within a period of forty days after the maturity of any written acknowledgment of indebtedness, unless the party holding such acknowledgment has, in writing, waived the right to proceed under this subdivision; or being a bank or banker, agent, broker, factor, or commission merchant, has failed for forty days to pay any moneys deposited with or received by him in a fiduciary capacity, upon demand of payment, excepting savings and loan banks, or associations who loan the money of their stockholders and depositors on real estate, and provide in their by-laws for the repayment of such deposits. The petitioners may, from time to time, amend and correct the petition, so that the same shall conform to the facts by leave of the court before which the proceedings are pending, such amendment or amendments to relate back to and be received as embraced in the original petition; but nothing in this section shall be construed to invalidate any loan of actual value, or the security therefor, made in good faith upon a security taken in good faith on the occasion of the making of such loan. The said petition shall be accompanied by a bond with two sureties in the penal sum of at least five hundred dollars, conditioned that if the debtor should not be declared an insolvent, the petitioners will pay all costs and damages, including a reasonable attorney's fee, that the debtor may sustain by reason of the filing of said petition. The court may, upon motion, direct the filing of an additional bond with different sureties, when deemed necessary.

§ 10. Upon the filing of such creditors' petition, the court, or a judge thereof, shall issue an order requiring such debtor to show cause, at a time and place to be fixed by said court, or judge, why he should not be adjudged an insolvent debtor, and at the same time, or thereafter, upon good cause shown therefor, said court, or judge, may make an order forbidding the payment of any debts, and the delivery of any property belonging to such debtor to him or for his use, or the transfer of any property by him.

§ 11. A copy of said petition, with a copy of the order to show cause, shall be served on the debtor, in the same manner as is provided by law for the service of summons in civil actions, but such service shall be made at least five days before the time fixed for the hearing; provided, that if, for any reason, the service is not made, the order may be renewed, and the time and place of hearing changed by supplemental order of the court; provided, however, that where the debtor or debtors on whom service is to be made reside out of this state; or has departed from the state; or cannot, after due diligence, be found within the state; or conceals himself to avoid the service of the order to show cause, or any other process or orders in the matter; or is a foreign corporation, having no managing or business agent, cashier, or secretary within the state, upon whom service can be made, and such facts are

shown to the court, or a judge thereof, by affidavit, such court or judge thereof shall make an order that the service of such order, or other process, be made by publication, in the same manner, and with the same effect, as service of summons by publication in ordinary civil actions.

§ 12. At the time fixed for the hearing of said order to show cause, or such other time as it may be adjourned to, the debtor may demur to the petition for the same causes as is provided for demurrer in other cases by the Code of Civil Procedure. If the demurrer be overruled, the debtor shall have five days thereafter in which to answer the petition. If the debtor answers the petition, such answer shall contain a specific denial of the material allegations of the petition controverted by him, and shall be verified in the same manner as pleadings in civil actions; and the issues raised thereon, may be tried with or without a jury, according to the practice provided by law for the trial of civil actions.

§ 13. If the respondent shall make default, or if, after a trial, the issues are found in favor of the petitioners, the court shall make an order adjudging that said respondent is, and was at the time of filing the petition, an insolvent debtor, and that the debtor was guilty of the acts and things charged in the petition, or such of those acts and charges as the court may find to be true; and shall require said debtor, within such time as the court may designate, not to exceed three days, to file in court the schedule and inventory provided for in sections three and four of this act, duly verified as required of a petitioning debtor; provided, that in the affidavit of the insolvent touching his property and its disposition he shall not be required to swear that he has not made any fraudulent preference, or committed any other act in conflict with the provisions of this act; but he may do so if he desires. Said order shall further direct the sheriff of the county, or city and county, where the insolvency petition is filed, or the receiver, if one has been theretofore appointed, to take possession of all the estate, real and personal, of the debtor, except such as may be by law exempt from execution and of all his deeds, vouchers, books of account, and papers, and to keep the same safely until the appointment of an assignee. Said order shall further forbid the payment of any debts, and the delivery of any property belonging to such debtor, to him, or for his use, and the transfer of any property by him; and shall further appoint a time and place for a meeting of the creditors, to prove their debts, and choose an assignee of the estate, and shall designate a newspaper of general circulation published in the county, or city and county, in which the petition is filed, if there be one; and if there be none, in a newspaper published nearest to such county, or city and county, in which publication of said order shall be made. The time appointed for the election of an assignee shall not be less than eight nor more than ten days from the date of the order of adjudication. Upon granting of said order, all proceedings against the said insolvent shall be stayed. When a receiver is appointed subsequent to adjudication, or an assignee is chosen as provided for in this act, the sheriff shall thereupon deliver to such receiver or assignee, as the case may be, all the property and assets of the insolvent which have come into his possession, and shall be allowed and paid as compensation for his service the same expenses

and fees as would by law be collectable if the property had been levied upon and safely kept under attachment.

§ 14. A copy of the order provided for in section thirteen of this act, shall immediately be published by the clerk of said court in the newspaper designated therein, as often as such newspaper is printed before the meeting of creditors, and upon the filing, at any time before the date set for such meeting, of the schedule required by said section thirteen, a copy of said order shall be served by the clerk forthwith by United States mail, postage prepaid, or personally, on all creditors named in said schedule. If said schedule is not filed prior to the day fixed for the election of an assignee, publication of said order as herein required shall be of itself sufficient notice to the creditors of the time and place appointed for the election of an assignee. No order of adjudication upon creditors' petition shall be entered unless there be first deposited, in addition to the usual cost of commencing said proceedings, a sum of money sufficient to defray the cost of the publication ordered by the court, and the further sum of five dollars, which is hereby constituted the legal fee of the clerk for the mailing or service of notice to creditors required in this section.

§ 15. If, upon such hearing or trial, the issues are found in favor of the respondent, the proceedings shall be dismissed, and the respondent shall recover costs from the petitioning creditors in the same manner as on the final judgment in civil actions.

• § 16. In all cases where the debtor resides out of this state, or has departed from the state; or cannot, after due diligence, be found within the state; or conceals himself to avoid service of the order to show cause, or any other preliminary process or orders in the matter; or is a foreign corporation, having no managing or business agent, cashier, or secretary within the state upon whom service of orders and process can be made, and it therefore becomes necessary to obtain service of process and order to show cause, as provided in section eleven of this act, then the petitioning creditors, upon submitting the affidavits requisite to procure an order of publication, and presenting a bond in double the amount of the aggregate sum of their claims against the debtor, shall be entitled to an order of court directing the sheriff of the county, or city and county, in which the matter is pending, to take into his custody a sufficient amount of property of the debtor to satisfy the demands of the petitioning creditors, and the costs of the proceedings. Upon receiving such order of the court to take into custody property of the debtor, it shall be the duty of the sheriff to take possession of the property and effects of the debtor, not exempt from execution, to an extent sufficient to cover the amount provided for, and to prepare within three days from the time of taking such possession, a complete inventory of all the property so taken, and to return it to the court as soon as completed. The time for taking the inventory and making return thereof, may be extended for good cause shown to the court, or a judge thereof. The sheriff shall also prepare a schedule of the names and residences of the creditors, and the amount due to each, from the books of the debtor, or from such other papers or data of the debtor available that may come to his possession, and shall file such schedule list of creditors and inventory with the clerk of the court.

§ 17. In all cases where property is taken into the custody of the sheriff, as provided in the preceding section, if the property taken into custody by the sheriff does not embrace all the property and effects of the debtor not exempt from execution, any other creditor or creditors of the debtor, upon giving bond in double the amount of their claims, singly or jointly, shall be entitled to similar orders, and to like action, by the sheriff, until all claims be provided for, if there be sufficient property or effects. All property taken into custody by the sheriff by virtue of the giving of any such bonds shall be held by him for the benefit of all creditors of the debtor whose claims shall be duly proved, and as provided in this act. The bonds provided for in this and the preceding section to procure the order for custody of the property and effects of the debtor, shall be conditioned that if, upon final hearing of the petition in insolvency, the court shall find in favor of the petitioners, such bonds and all of them shall be void; if the decision be in favor of the debtor, the proceedings shall be dismissed, and the debtor, his heirs, administrators, executors, or assigns, shall be entitled to recover such sum of money as shall be sufficient to cover the damages sustained by him, not to exceed the amount of the respective bonds, in any court having jurisdiction of the subject and the parties; provided, that if either the petitioners or the debtor shall appeal from the decision of the court, upon final hearing of the petition the appellant shall be required to give bond to the successful party in a sum double the amount of the value of the property in controversy, and for the costs of the proceedings. Any person interested in the estate may except to the sufficiency of the sureties on such bond, or bonds. When excepted to, the petitioner's sureties, upon notice to the person excepting of not less than two nor more than five days, must justify before a judge or county clerk in the same manner as upon bail on arrest; and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the clerk or judge shall issue an order vacating the order to take the property of the debtor into the custody of the sheriff.

§ 18. If in any case, proper affidavits and bonds are presented to the court, or a judge thereof, asking for and obtaining an order of publication, and an order for the custody of the property of the debtor, as provided in sections sixteen and seventeen of this act, and thereafter the petitioners shall make it appear satisfactory to the court, or a judge thereof, that the interest of the parties to the proceedings will be subserved by a sale thereof, the court may order such property to be sold, in the same manner as property is sold under execution, the proceeds to be deposited in the court, to abide the result of the proceedings.

ARTICLE IV.

ASSIGNEES.

§ 19. At a meeting of the creditors in open court, those being entitled to vote, as provided by section eight, shall proceed to the election of one assignee. In electing an assignee, the opinion of the majority in amount of claims shall prevail. The clerk of the court shall keep a minute of the deliberations of said creditors, and of the election and appointment of an assignee, and enter the same upon the records of the court. The assignee shall file, within five days, unless the time be extended by the court, with the clerk, a

bond, in an amount to be fixed by the court, to the state of California, with two or more sufficient sureties, approved by the court, and conditioned for the faithful performance of the duties devolving upon him. The bond shall not be void upon the first recovery, but may be sued upon from time to time by any creditor aggrieved, in his own name, until the whole penalty be exhausted. The sureties on such bond may be required to justify upon the application of any party interested, in the same manner as bail upon arrest in civil cases.

§ 20. If, on the day appointed for the meeting, creditors do not attend, or refuse to elect an assignee; or if, after election, the assignee shall fail to qualify within the proper time, or if a vacancy occurs by death or otherwise, it shall be lawful for the court to appoint an assignee and fix the amount of his bond.

§ 21. As soon as an assignee is elected or appointed and qualified, the clerk of the court shall, by an instrument under his hand and seal of the court, assign and convey to the assignee all the estate, real and personal, of the debtor with all his deeds, books and papers relating thereto, and such assignment shall relate back to the commencement of the proceedings in insolvency, and shall relate back to the acts upon which the adjudication was founded, and by operation of law shall vest the title to all such property and estate, both real and personal, in the assignee, although the same is then attached on mesne process, as the property of the debtor, and shall dissolve any attachment made within one month next preceding the commencement of the insolvency proceedings. Such assignment shall operate to vest in the assignee all of the estate of the insolvent debtor not exempt by law from execution. Whenever such assignment shall dissolve an attachment as herein provided, it shall also vacate any judgment made or entered, and dissolve and set aside any execution levied in any action or proceeding against the debtor commenced subsequently to the action in which the attachment is dissolved.

§ 22. The assignee shall have the right to recover all the estate, debts, and effects of said insolvent. If, at the time of the commencement of proceedings in insolvency an action is pending in the name of the debtor, for the recovery of a debt or other thing which might or ought to pass to the assignee by the assignment, the assignee shall be allowed and admitted to prosecute the action, in like manner and with like effect as if it had been originally commenced by him. If there are any rights of action in favor of the insolvent for damages, on any account, for which an action is not pending, the assignee shall have the right to prosecute the same with the same effect as the insolvent might have done himself if no proceedings in insolvency had been instituted. If any action or proceeding at law, or in equity, in which the insolvent is defendant is pending at the time of the adjudication, the assignee may defend the same, in the same manner and with like effect as it might have been defended by the insolvent. In suit prosecuted or defended by the assignee, a certified copy of the assignment made to him shall be conclusive evidence of his authority to sue or defend.

§ 23. The assignee shall, within one month after the making of the assignment to him, cause the same to be recorded in every county, or city and

county, within this state, where any lands owned by the debtor are situated, and the record of such assignment, or a duly certified copy thereof, shall be conclusive evidence thereof in all courts. If the schedule and inventory required by this act have not been filed by the debtor the assignee shall within one month after his election, prepare and file such schedule and inventory from the best information he can obtain, and shall thereupon serve notice by United States mail, postage prepaid, or personally, on all creditors named in such schedule, whose claims have not been filed, to forthwith prove their demands.

§ 24. Any assignee may at any time, by writing filed in court, resign his appointment, having first settled his accounts, and delivered up all the estate to such successor as the court shall appoint; provided, that if, in the discretion of the court, the circumstances of the case require it, upon good cause being shown, the court may, at any time before such settlement of account and delivery of the estate shall have been completed, revoke the appointment of such assignee and appoint another in his stead. The liability of the outgoing assignee, or of the sureties on his bond, shall not be in any manner discharged, released, or affected by such appointment of another in his stead.

§ 25. The said assignee shall have power:

1. To sue in his own name and recover all the estate, debts, and things in action, belonging or due to such debtor, and no set-off or counterclaim shall be allowed in any such suit for any debt, unless it was owing to such creditor by such debtor at the time of the adjudication of insolvency.

2. To take into his possession all the estate of such debtor except property exempt by law from execution, whether attached or delivered to him, or afterward discovered, and all books, vouchers, evidence of indebtedness and securities belonging to the same.

3. In case of a non-resident absconding or concealed debtor, to demand and receive of every sheriff who shall have attached any of the property of such debtor, or who shall have in his possession any moneys arising from the sale of such property, all such property and moneys, on paying him his lawful costs and charges for attaching and keeping the same.

4. From time to time to sell at public auction all the estate, real and personal, vested in him as such assignee, which shall come to his possession and as ordered by the court.

5. On such sales to execute the necessary conveyances and bills of sale.

6. To redeem all valid mortgages and conditional contracts, and all valid pledges of personal property, and to satisfy any judgments which may be an encumbrance on any property sold by him, or to sell such property, subject to such mortgage, contracts, pledges, or judgments.

7. To settle all matters and accounts between such debtor and his debtors, subject to the approval of the court.

8. Under the order of the court appointing him, to compound with any person indebted to such debtor, and thereupon to discharge all demands against such person.

9. To have and recover from any person receiving a conveyance, gift, transfer, payment, or assignment, made contrary to any provision of this act, the property thereby transferred or assigned; or in case a redelivery of the prop-

erty cannot be had, to recover the value thereof, with damages for the detention.

§ 26. The insolvent shall, either before or on the day appointed for the meeting of creditors, deliver to the court all the commercial or account books he may have kept, which books shall be deposited in the clerk's office of said court. Said insolvent shall also deliver to the court at the same time, all vouchers, notes, bonds, bills, securities, or other evidences of debt, in any manner relating to or having any bearing upon or connection with the property surrendered by said debtor, and all such papers or securities shall be deposited in the clerk's office of said court, and the clerk shall hand them over, together with the books of the insolvent, to the assignee who may be appointed.

§ 27. If any person, before the assignment is made, having notice of the commencement of the proceedings in insolvency, or having reason to believe that insolvency proceedings are about to be commenced, embezzles or disposes of any of the moneys, goods, chattels, or effects of the insolvent, he is chargeable therewith, and liable to an action by the assignee for double the value of the property so embezzled or disposed of, to be recovered for the benefit of the estate.

§ 28. The same penalties, forfeitures, and proceedings by citation, examination and commitment shall apply on behalf of an assignee against persons suspected of having concealed, embezzled, conveyed away, or disposed of any property of the debtor, or of having possession or knowledge of any deeds, conveyances, bonds, contracts, or other writings which relate to any interest of the debtor in any real or personal estate as provided in the case of estates of deceased persons in sections one thousand four hundred and fifty-nine, one thousand four hundred and sixty, and one thousand four hundred and sixty-one of the Code of Civil Procedure.

§ 29. The assignee shall as speedily as possible convert the estate, real and personal, into money. He shall keep a regular account of all moneys received by him as assignee, to which every creditor or other person interested therein may, at all reasonable times, have access. No private sale of any property of the estate of an insolvent debtor shall be valid unless made under the order of the court, upon a petition in writing, which shall set forth the facts showing the sale to be necessary. Upon filing the petition, notice of at least ten days shall be given by publication and mailing, in the same manner as is provided in section seven of this act. If it appears that a private sale is for the best interests of the estate, the court shall order it to be made.

§ 30. In all cases where there has been personal service of the order to show cause, or voluntary appearance after order of publication, when it appears to the satisfaction of the court that the estate of the debtor, or any part thereof, is of a perishable nature, or is liable to deteriorate in value, or is disproportionately expensive to keep, the court may order the same to be sold in such manner as may be deemed most expedient, under the direction of the sheriff, receiver, or assignee, as the case may be, who shall hold the funds received in place of the property sold until further order of the court.

§ 31. Outstanding debts, or other property due or belonging to the estate,

which cannot be collected and received by the assignee without unreasonable or inconvenient delay or expense, may be sold and assigned in like manner as the remainder of the estate. If there are any rights of action for damages in favor of the insolvent prior to the commencement of the insolvency proceedings, the same may, with the approval of the court, be compromised.

§ 32. Assignees shall be allowed all necessary expenses in the care, management, and settlement of the estate, and shall be entitled to charge and receive for their services commissions upon all sums of money coming to their hands and accounted for by them, as follows: For the first thousand dollars, at the rate of seven per centum; for all above that sum and not exceeding ten thousand dollars, at the rate of five per centum; and for all above that sum, at the rate of four per centum; provided, however, that if the person acting as assignee was receiver of the property of the estate pending the election of an assignee, any compensation allowed him as such receiver shall be deducted from the compensation to which he otherwise would be entitled as such assignee.

§ 33. At the expiration of three months from the appointment of the assignee in any case, or as much earlier as the court may direct, a time and place shall be fixed by the court at which the assignee shall exhibit to the court and to the creditors, and file just and true accounts of all his receipts and payments, verified by his oath, and a statement of the property outstanding, specifying the cause of its outstanding, also what debts or claims are yet undetermined, and stating what sum remains in his possession, and shall accompany the same with an affidavit that notice by mail has been given to all creditors named in the schedule filed by the debtor or the assignee that said accounts will be heard at a time specified in such notice, which time shall not be less than ten nor more than fifteen days from the filing of such accounts. At the hearing the court shall audit the accounts, and any person interested may appear and file exceptions thereto and contest the same, and thereupon the court may order a dividend paid to those creditors whose claims have been proven and allowed. Thereafter, further accounts, statements, and dividends shall be made in like manner as often as occasion requires; provided, however, that it shall be the duty of the assignee to file his final account within one year from the date of the order of adjudication, unless the court, after notice to creditors, shall grant further time, upon a satisfactory showing that great loss and waste would result to the estate by reason of the conversion of the property into money within said time, or that it has been impossible to do so by reason of litigation.

§ 34. The court shall at any time, upon the motion of any two or more creditors, require the assignee to file his account in the manner and upon giving the notice specified in the preceding section, and if he has funds subject to distribution, he shall be required to distribute them without delay.

§ 35. All creditors whose debts are duly proved and allowed shall be entitled to share in the property and estate pro rata without priority or preference whatever, other than as provided in this act and in section one thousand two hundred and four of the Code of Civil Procedure; provided, that any debt proved by any person liable as bail, surety, guarantor, or otherwise,

for the debtor, shall not be paid to the person so proving the same until satisfactory evidence shall be produced of the payment of such debt by such person so liable; and the share to which such debt would be entitled may be paid into court, or otherwise held, for the benefit of the party entitled thereto, as the court may direct.

§ 36. Whenever any dividend has been duly declared, the distribution of it shall not be stayed or affected by reason of debts being subsequently proved, but the creditors proving such debts shall be entitled to a dividend equal to those already received by the other creditors, before any further dividend is made to the latter; provided, the failure to prove such claim shall not have resulted from his own neglect.

§ 37. Should the assignee refuse or neglect to render his accounts as required by sections thirty-three and thirty-four of this act, or pay over a dividend when he shall have, in the opinion of the court, sufficient funds for that purpose, the court shall immediately discharge such assignee from his trust, and shall have power to appoint another in his place. The assignee so discharged shall forthwith deliver over to the assignee appointed by the court all the funds, property, books, vouchers, or securities belonging to the insolvent, without charging or retaining any commission or compensation for his personal services.

§ 38. Preparatory to the final account and dividend, the assignee shall submit his account to the court, and file the same, and shall at the time of filing accompany the same with an affidavit that a notice by mail has been given to all creditors who have proved their claims, that he will apply for a settlement of his account, and for a discharge from all liability as assignee, at a time specified in such notice, which time shall not be less than ten or more than twenty days from such filing. At the hearing the court shall audit the account, and any person interested may appear and file exceptions in writing and contest the same. The court thereupon shall settle the account, and order a dividend of any portion of the estate, remaining undistributed, and shall discharge the assignee, subject to compliance with the order of the court, from all liability as assignee to any creditor of the insolvent.

ARTICLE V.

PARTNERSHIPS AND CORPORATIONS.

§ 39. Two or more persons who are partners in business, or the surviving partner of any firm, may be adjudged insolvent, either on the petition of such partners, or any one of them, or on the petition of five or more creditors of the partnership, qualified as provided for in section nine of this act, in which case an order shall be issued in the manner provided by this act, upon which all the joint stock and property of the partnership, and also all the separate estate of each of the partners, shall be taken, excepting such parts thereof as may be exempt by law; and all the creditors of the company, and the separate creditors of each partner, shall be allowed to prove their respective debts; and the assignee shall be chosen by the creditors of the copartnership, and shall also keep separate accounts of the joint stock or property of the copartnership, and the separate estate of each member thereof, and after deducting out of the whole amount received by such assignee the whole amount of the

expenses and disbursements, the net proceeds of the joint stock shall be appropriated to pay the creditors of the copartnership, and the net proceeds of the separate estate of each partner shall be appropriated to pay his separate creditors; and if there shall be any balance of the separate estate of any partner after the payment of his separate debts, such balance shall be added to the joint stock for the payment of the joint creditors; and if there shall be any balance of the joint stock after the payment of the joint debts, such balance shall be divided and appropriated to and among the separate estate of the several partners according to their respective right and interest therein, and as it would have been if the partnership had been dissolved without any insolvency; and the sum so appropriated to the separate estate of each partner shall be applied to the payment of his separate debts, and the certificate of discharge shall be granted or refused to each partner as the same would or ought to be if the proceedings had been by or against him alone under this act; and in all other respects the proceedings as to the partners shall be conducted in the like manner as if they had been commenced and prosecuted by or against one person alone. If such copartners reside in different counties, the court in which the petition is first filed shall retain exclusive jurisdiction over the case. If the petition be filed by less than all the partners of a copartnership, those partners who do not join in the petition shall be ordered to show cause why they, as individuals, and said copartnership, should not be adjudged to be insolvent, in the same manner as other debtors are required to show cause upon a creditor's petition, as in this act provided; and no order of adjudication shall be made in said proceedings until after the hearing of said order to show cause; provided, that in case of proceedings by or against surviving partners, as such, only the partnership interest of deceased partners shall be subject to the control of the court in the insolvency proceeding; but the surviving partner, assignee, or creditors may pursue the property of the deceased partners in the court having jurisdiction thereof in probate proceedings.

§ 40. The provisions of this act shall apply to corporations, and upon the petition of any officer of any corporation, duly authorized by the vote of the board of directors or trustees, at a meeting specially called for that purpose, or by the assent in writing of a majority of the directors or trustees as the case may be, or upon a creditor's petition made and presented in the manner provided in respect to debtors, the like proceedings shall be had and taken as are provided in the case of debtors. All the provisions of the act which apply to the debtor, or set forth his duties, examination, and liabilities, or prescribe penalties, or relate to fraudulent conveyances, payments and assignments, apply to each and every officer of any corporation in relation to the same matters concerning the corporation. Whenever any corporation is declared insolvent, all its property and assets shall be distributed to the creditors; but no discharge shall be granted to any corporation.

ARTICLE VI.

PROOF OF DEBTS.

§ 41. All debts due and payable from the debtor at the time of the adjudication of insolvency, and all debts then existing but not payable until a

future time, a rebate of interest being made when no interest is payable by the terms of the contract, may be proved against the estate of the debtor.

§ 42. All demands against the debtor for or on account of any goods or chattels wrongfully taken, converted, or withheld by him, may be proved and allowed as debts to the amount of the value of the property so withheld, from the time of the conversion; provided, however, that if the assignee, or any creditor whose claim has been proven against the estate, shall request it in writing, the court shall require the matter of such claim for damages to be tried as an ordinary action at law, to determine the liability of the debtor for such damages.

§ 43. If the debtor shall be bound as indorser, surety, bail, or guarantor, upon any bill, bond, note, or other specialty or contract, or for any debt of any person, and his liability shall not have become absolute until the adjudication of insolvency, the creditor may prove the same after such liability shall have become fixed, and before the final dividend shall have been declared.

§ 44. In all cases of contingent debts and contingent liabilities, contracted by the debtor, and not herein otherwise provided for, the creditor may make claim therefor and have his claim allowed, with the right to share in the dividends, if the contingency shall happen before the order of the final dividend; or he may, at any time, apply to the court to have the present value of the debt or liability ascertained and liquidated, which shall be done in such manner as the court shall order, and shall be allowed to prove for the amount so ascertained.

§ 45. Any person liable as bail, surety, or guarantor, or otherwise, for the debtor, who shall have paid the debt, or any part thereof, in discharge of the whole, shall be entitled to prove such debt, or to stand in the place of the creditor, if he shall have proved the same, although such payments shall have been made after the proceedings in insolvency were commenced; and any person so liable for the debtor, and who has not paid the whole of said debt, but is still liable for the same, or any part thereof, may, if the creditor shall fail or omit to prove such debt, prove the same in the name of the creditor.

§ 46. Where the debtor is liable to pay rent, or other debt falling due at fixed and stated periods, the creditor may prove for a proportionate part thereof up to the time of the insolvency, as if the same became due from day to day, and not at such fixed and stated periods.

§ 47. In all cases of mutual debts and mutual credits between the parties, the account between them shall be stated, and one debt set off against the other, and the balance only shall be allowed and paid. But no set-off or counterclaim shall be allowed of a claim in its nature not provable against the estate; provided, that no set-off or counterclaim shall be allowed in favor of any debtor to the insolvent of a claim purchased by or transferred to him after the filing of the petition by or against him.

§ 48. When a creditor has a mortgage, or pledge of real or personal property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, he shall be admitted as a creditor only for the balance of the debt, after deducting the value of such property, to be ascertained by

agreement between him and the receiver, if any, and if no receiver, then upon such sum as the court, or a judge thereof, may decide to be fair and reasonable, before the election of an assignee, or by a sale thereof, to be made in such manner as the court, or judge thereof, shall direct; or the creditor may release or convey his claim to the receiver, if any, or if no receiver then to the sheriff, before the election of an assignee, or to the assignee if an assignee has been elected, upon such property, and be admitted to prove his whole debt. If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon, and in either case the assignee and creditor, respectively, shall execute all deeds and writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, or its value fixed, the creditor shall not be allowed to prove any part of his debt.

§ 49. No creditor, proving his debt or claim, shall be allowed to maintain any suit at law or in equity therefor, against the debtor, but shall be deemed to have waived all right of action and suit against him, and all proceedings already commenced, or unsatisfied, judgment already obtained thereon, shall be deemed to be discharged and surrendered thereby; and after the debtor's discharge, upon proper application and proof to the court having jurisdiction, all such proceedings shall be dismissed, and such unsatisfied judgments satisfied of record; provided, that no valid lien existing in good faith thereunder shall be thereby affected; and further provided, that a creditor proving his debt or claim shall not be held to have waived his right of action or suit against the debtor where a discharge has been refused or the proceedings have been determined without a discharge. And no creditor whose debt is provable under this act shall be allowed, after the commencement of proceedings in insolvency, to prosecute to final judgment any action therefor against the debtor until the question of the debtor's discharge shall have been determined, and any such suit or proceeding shall, upon the application of the debtor or of any creditor, or the assignee, be stayed to await the determination of the court in insolvency on the question of discharge; provided, that there be no unreasonable delay on the part of the debtor or the petitioning creditors, as the case may be, in prosecuting the case to its conclusion; and provided also, that if the amount due the creditor is in dispute, the suit, by leave of the court, in insolvency may proceed to judgment for the purpose of ascertaining the amount due, which amount may be proven in insolvency, but execution shall be stayed as aforesaid; provided further, that where a valid lien or attachment has been acquired or secured in any such action, and an undertaking been offered and accepted in lieu of such lien or attachment, the case may be prosecuted to final judgment for the purpose of fixing the liability of the sureties upon such undertaking, but execution against the insolvent upon such judgment shall be stayed. [Amendment, Stats. 1897, ch. 38.]

§ 50. Any person who shall have accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this act, shall not prove the debt or claim on account of

which the preference was made or given; nor shall he receive any dividend thereon until he shall first have surrendered to the assignee all property, money, benefit, or advantage received by him under such preference.

§ 51. The court may, upon the application of the assignee, or of any creditor of the debtor, or without any application, before or after adjudication in insolvency, examine upon oath the debtor in relation to his property and his estate and any person tendering or making proof of claims, and may subpoena witnesses to give evidence relating to such matters. All examinations of witnesses shall be had and depositions shall be taken in accordance with and in the same manner as is provided by the Code of Civil Procedure.

ARTICLE VII.

DISCHARGE.

§ 52. At any time after the expiration of three months from the adjudication of insolvency, but not later than one year from such adjudication, unless the property of the insolvent has not been converted into money, the debtor may apply to the court for a discharge from his debts, and the court shall thereupon order notice to be given to all creditors who have proved their debts, to appear, on a day appointed for that purpose, and show cause why a discharge should not be granted to the debtor; said notice shall be given by mail and by publication at least once a week, for four weeks, in a newspaper published in the county, or city and county, or, if there be none, in a newspaper published nearest such county, or city and county; provided, that if no debts have been proven, such notice shall not be required.

§ 53. No discharge shall be granted, or if granted shall be valid, if the debtor shall have sworn falsely in his affidavit annexed to his petition, schedule, or inventory, or upon any examination in the course of the proceedings in insolvency, in relation to any material fact concerning his estate, or his debts, or to any other material fact; or if he has concealed any part of his estate or effects, or any books or writing relating thereto; or if he has been guilty of fraud or wilful neglect in the care, custody, or delivery to the assignee of the property belonging to him at the time of the presentation of his petition and inventory, excepting such property as he is permitted to retain under the provisions of this act, or if he has caused or permitted any loss or destruction thereof; or if, within one month before the commencement of such proceedings, he has procured his lands, goods, moneys, or chattels to be attached, or seized on execution; or if he has destroyed, mutilated, altered, or falsified any of his books, documents, papers, writings, or securities, or has made, or been privy to the making of, any false or fraudulent entry in any book of account or other document with intent to defraud his creditors; or if he has given any fraudulent preference, contrary to the provisions of this act, or made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property, or has lost any part thereof in gaming, or has admitted a false or fictitious debt against his estate; or, if, having knowledge that any person has proven such false or fictitious debt, he has not disclosed the same to his assignee within one month after such knowledge; or if, being a merchant or tradesman, he has not, subsequently to the passage of this act, kept proper books of account; or if he, or any other person on

his account, or in his behalf, has influenced the action of any creditor, at any stage of the proceedings, by any pecuniary consideration or obligation; or if he has, in contemplation of becoming insolvent, made any pledge, payment, transfer, assignment, or conveyance of any part of his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who is, or may be, under liability for him, or for the purpose of preventing the property from coming into the hands of the assignee, or of being distributed under this act in satisfaction of his debts; or if he has been convicted of any misdemeanor under this act, or has been guilty of fraud contrary to the true intent of this act; or, in case of voluntary insolvency, has received the benefits of this or any other act of insolvency or bankruptcy, within three years next preceding his application for discharge; or if insolvency proceedings in which he could have applied for a discharge are pending by or against him in the superior court of any other county, or city and county, in the state. And before any discharge is granted, the debtor shall take and subscribe an oath to the effect that he has not done, suffered, or been privy to any act, matter, or thing specified in this act, as grounds for withholding such discharge or as invalidating such discharge, if granted.

§ 54. Any creditor opposing the discharge of a debtor shall file specifications in writing, of the grounds of his opposition, and after the debtor has filed and served his answer thereto, which pleadings shall be verified, the court shall try the issue or issues raised, with or without a jury, according to the practice provided by law in civil actions.

§ 55. If it shall appear to the court that the debtor has in all things conformed to his duty under this act, and that he is entitled under the provisions thereof to receive a discharge, the court shall grant him a discharge from all his debts, except as hereinafter provided, and shall give him a certificate thereof, under the seal of the court, in substance as follows: In the superior court of the county of ———, state of California. Whereas, ——— has been duly adjudged an insolvent under the insolvent laws of this state, and appears to have conformed to all the requirements of law in that behalf, it is therefore ordered by the court that said ——— be forever discharged from all debts and claims, which by said insolvent laws are made provable against his estate, and which existed on the ——— day of ———, on which the petition of adjudication was filed by (or against) him, excepting such debts, if any, as are by said insolvent laws excepted from the operation of a discharge in insolvency. Given under my hand, and the seal of the court, this ——— day of ———, A. D. ———. Attest: ———, clerk. (Seal) ———, judge.

§ 56. No debt created by fraud or embezzlement of the debtor, or his defalcation as a public officer, or while acting in a fiduciary character, shall be discharged under this act, but the debt may be proved, and the dividend thereon shall be a payment on account of said debt; and no discharge granted under this act shall release, discharge, or affect any person liable for the same debt, for or with the debtor, either as partner, joint contractor, indorser, surety, or otherwise.

§ 57. A discharge, duly granted under this act, shall, with the exceptions

aforesaid, release the debtor from all claims, debts, liabilities, and demands, set forth in his schedule, or which were or might have been proved against his estate in insolvency, and may be pleaded by a simple averment that on the day of its date such discharge was granted to him, setting forth the same in full, and the same shall be a complete bar to all suits brought on any such debts, claims, liabilities, or demands, and the certificate shall be *prima facie* evidence in favor of such fact and of the regularity of such discharge; provided, however, that any creditor of said debtor, whose debt was proved or provable against the estate in insolvency, who shall see fit to contest the validity of such discharge on the ground that it was fraudulently obtained, and who has discovered the facts constituting the fraud subsequent to the discharge, may, at any time within two years after the date thereof, apply to the court which granted it to set it aside and annul the same, or if the same shall have been pleaded, the effect thereof may be avoided collaterally upon any such grounds.

§ 58. The refusal of a discharge to the debtor shall not affect the administration and distribution of his estate under the provisions of this act.

ARTICLE VIII.

FRAUDULENT PREFERENCES AND TRANSFERS.

§ 59. If any debtor being insolvent, or in contemplation of insolvency, within one month before the filing of a petition by or against him, with a view to give a preference to any creditor, or person having a claim against him, or who is under any liability for him, procures any part of his property to be attached, sequestered, or seized on execution, or makes any payment, pledge, mortgage, assignment, transfer, sale, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, to any one, the person receiving such payment, pledge, mortgage, assignment, transfer, sale, or conveyance, or to be benefited thereby, or by such attachment or seizure, having reasonable cause to believe that such debtor is insolvent, and that such attachment, seizure, payment, pledge, mortgage, conveyance, transfer, sale, or assignment is made with a view to prevent his property from coming to his assignee in insolvency, or to prevent the same from being distributed ratably among his creditors, or to defeat the object of, or in any way hinder, impede, or delay the operation of, or to evade any of the provisions of this act, such attachment, sequestration, seizure, payment, pledge, mortgage, transfer, sale, assignment, or conveyance, is void, and the assignee, or the receiver, may recover the property, or the value thereof, as assets of such insolvent debtor; and if such payment, pledge, mortgage, conveyance, sale, assignment, or transfer is not made in the usual and ordinary course of business of the debtor, or if such seizure or sequestration is made under a judgment which the debtor has confessed or offered to allow, that fact shall be *prima facie* evidence of fraud. All assignments, transfers, conveyances, mortgages, or encumbrances of real estate shall be deemed, under this section, to have been made at the time the instrument conveying or affecting such realty was filed for record in the county recorder's office of the county, or city and county, where the same is situated.

ARTICLE IX.

PENAL CLAUSES.

§ 60. From and after the taking effect of this act, if any debtor or insolvent shall, after the commencement of proceedings in insolvency, secrete or conceal any property belonging to his estate, or part with, conceal, or destroy, alter, mutilate, or falsify, or cause to be concealed, destroyed, altered, mutilated, or falsified, any book, deed, document, or writing relating thereto, or remove, or cause to be removed, the same or any part thereof, with intent to prevent it from coming into the possession of the assignee in insolvency, or to hinder, impede, or delay his assignee in recovering or receiving the same, or make any payment, gift, sale, assignment, transfer, or conveyance of any property belonging to his estate, with like intent, or shall spend any part thereof in gaming; or shall, with intent to defraud, wilfully and fraudulently conceal from his assignee, or fraudulently or designedly omit from his schedule any property or effects whatsoever; or if, in case of any person having, to his knowledge or belief, proved a false or fictitious debt against his estate, he shall fail to disclose the same to his assignee within one month after coming to the knowledge or belief thereof; or shall attempt to account for any of his property by fictitious losses or expenses; or shall, within three months before commencement of proceedings of insolvency, under the false pretense of carrying on business and dealing in the ordinary course of trade, obtain on credit from any person any goods or chattels, with intent to defraud; or shall, with intent to defraud his creditors, within three months next before the commencement of proceedings in insolvency, pawn, pledge, or dispose of, otherwise than by bona fide transactions in the ordinary way of his trade, any of his goods and chattels which have been obtained on credit and remain unpaid for, he shall be deemed guilty of misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than three months nor more than two years.

ARTICLE X.

MISCELLANEOUS.

§ 61. If any debtor shall die after the order of adjudication, the proceedings shall be continued and concluded in like manner and with like validity and effect as if he had lived.

§ 62. Pending proceedings by or against any person, copartnership, or corporation, no statute of limitations of this state shall run against a claim which in its nature is provable against the estate of the debtor.

§ 63. Any creditor, at any stage of the proceedings, may be represented by his attorney or duly authorized agent.

§ 64. It shall be the duty of the court having jurisdiction of the proceedings to exempt and set apart, for the use and benefit of said insolvent, such real and personal property as is by law exempt from execution; and also a homestead, in the manner provided in section one thousand four hundred and sixty-five of the Code of Civil Procedure. But no property or homestead shall be set apart, as aforesaid, until it is first proved that notice of the hearing of the application therefor has been duly given by the clerk, by causing to be posted in at least three public places in the county at least ten days prior to

the time of such hearing, setting forth the name of said insolvent debtor, and the time and place appointed for the hearing of such application, which said notice shall briefly indicate the homestead sought to be exempted or the property sought to be set aside; and the decree must show that such proof was made to the satisfaction of the court, and shall be conclusive evidence of that fact.

§ 65. The filing of a petition by or against a debtor upon which, or upon an amendment of which, an order of adjudication in insolvency may be made, shall be deemed to be the commencement of proceedings in insolvency under this act.

§ 66. Words used in this act in the singular, include the plural, and in the plural, the singular, and the word "debtor" includes partnerships and corporations.

§ 67. Upon the filing of either a voluntary or involuntary petition in insolvency, a receiver may be appointed by the court in which the proceeding is pending, or by a judge thereof, at any time before the election of an assignee, when it appears by the verified petition of a creditor that the assets of the insolvent, or a considerable portion thereof, have been pledged, mortgaged, transferred, assigned, conveyed, or seized, on legal process, in contravention or violation of the provisions of section fifty-nine of this act, and that it is necessary to commence an action to recover the same. The appointment, oath, undertaking and powers of such receiver shall in all respects be regulated by the general laws of the state applicable to receivers. When an assignee is chosen, and has qualified, the receiver shall forthwith return to court an account of the assets and property which have come into his possession, and of his disbursements, and a report of all actions or proceedings commenced by him for the recovery of any property belonging to the estate, and the court shall thereupon summarily hear and settle the receiver's account, and shall allow him a just compensation for his services, including a reasonable attorney's fee, whereupon the receiver shall deliver all property, assets, or effects remaining in his hands, to the assignee, who shall be substituted for the receiver in all pending actions or proceedings.

§ 68. All sections of the Code of Civil Procedure of the state of California relating to contempts are hereby made applicable to all proceedings under this act.

§ 69. When an attachment has been made and is not dissolved before the commencement of proceedings in insolvency, or is dissolved by an undertaking given by the defendant, if the claim upon which the attachment suit was commenced is proved against the estate of the debtor, the plaintiff may prove the legal costs and disbursements of the suit, and of the keeping of the property, and the amount thereof shall be a preferred debt. In all contested matters in insolvency the court may, in its discretion, award costs to either party, to be paid by the other, or to either or both parties, to be paid out of the estate, as justice in equity may require; in awarding costs, the court may issue execution therefor. In all involuntary cases under this act, the court shall allow the petitioning creditors out of the estate of the debtor, if any adjudication of insolvency be made, as a preferred claim, all legal costs and disbursements incurred by them in that behalf.

§ 70. The court may, upon the application of the debtor, if it be a voluntary petition, or of the petitioning creditors, if a creditor's petition, dismiss the petition and discontinue the proceedings at any time before the appointment of an assignee upon giving ten days' notice to the creditors, in the same manner that notice of the time and place of an election of an assignee is given, if no creditor files written objections to such dismissal; provided, however, that by consent of all creditors the proceedings may be dismissed at any time. After the appointment of an assignee, no dismissal shall be made without the consent of all parties interested in or affected thereby.

§ 71. An appeal may be taken to the supreme court in the following cases:

1. From an order granting or refusing an adjudication of insolvency;
2. From an order made at the hearing of any account of an assignee, allowing or rejecting a creditor's claim, in whole or in part;
3. From an order granting or overruling a motion for a new trial;
4. From an order settling an account of an assignee;
5. From an order against or in favor of setting apart homestead or other property claimed as exempt from execution;
6. From an order granting or refusing a discharge to the debtor.

The notice, undertaking, and procedure on appeal shall conform to the general laws of this state regulating appeals in civil cases, except that when an assignee has given an official undertaking and appeals from a judgment or order in insolvency, his official undertaking stands in the place of an undertaking on appeal, and the sureties therein are liable on such undertaking; provided, however, that an appeal from an order granting or refusing an adjudication of insolvency shall not stay proceedings unless a written undertaking be entered into on the part of the appellant, with at least two sureties, in such an amount as the court, or a judge thereof, may direct, but not less than double the value of the property involved, to the effect that if the order appealed from be affirmed, or the appeal dismissed, appellant will pay all costs and damages which the adverse parties may sustain by reason of the appeal and the stay of proceedings.

§ 72. The insolvent act of eighteen hundred and eighty, and all amendments thereto, are hereby repealed; provided, however, that such repeal shall in no manner invalidate or affect any case in insolvency instituted and pending in any court on and prior to the day when this act shall take effect.

INSOLVENCY—CORPORATIONS.

See **KERR'S CYC. POL. CODE** § 602.

Federal Bankruptcy Act passed by Congress in pursuance of constitutional authority July 1, 1898, suspends the state Act of Insolvency while the federal act is in force. Mr. Justice Speer says, *In re Macon Sash etc. Co.*, 112 Fed. Rep. 323, the proposition that the federal bankruptcy law suspends state bankruptcy act is as clear upon authority as it must inevitably be by the logic of the supremacy of the national law. Among the numerous authorities sustaining this point, see *Barber vs. Mexico International Co.*, 73 Conn. 537, 48 Atl. Rep. 758; *Harbaugh vs. Costello*, 184 Ill. 110, 116, 75 Am. St. Rep. 147, 56 N. E. Rep. 363; *Fisk*

vs. Montgomery, 21 La. Ann. 446; *Van Nostrand vs. Carr*, 30 Md. 128; *Parmenter Mfg. Co. vs. Hamilton*, 172 Mass. 178, 70 Am. St. Rep. 258, 51 N. E. Rep. 529; *Foley-Bean Lumber Co. vs. Sawyer*, 76 Minn. 118, 78 N. W. Rep. 1038; *Armour Packing Co. vs. Brown*, 76 Minn. 465, 79 N. W. Rep. 522; *Rowe vs. Page*, 54 N. H. 190; *Roose vs. Locke*, 53 How. Pr. (N. Y.) 148; *Commonwealth vs. O'Hara*, 6 Phila. (Pa.) 402, 24 Leg. Int. 284, 3 Pittsb. 70; *Matter of Reynolds*, 8 R. I. 485, 5 Am. Rep. 615; *Mauran vs. Crown Carpet Lining Co.*, 23 R. I. 324, 50 Atl. Rep. 331; *In re Gutwillig*, 90 Fed. Rep. 475; *In re Bruss-Ritter Co.*, 90 Fed. Rep. 651; *In re Rouse*, 91 Fed. Rep. 96, 99;

In re Seivers, 91 Fed. Rep. 366, affirmed sub nom. Davis vs. Bohle, 92 Fed. Rep. 325, 329, 34 C. C. A. 372; In re Curtis, 91 Fed. Rep. 737, affirmed 94 Fed. Rep. 630; In re Smith, 92 Fed. Rep. 135; In re Etheridge Furniture Co., 92 Fed. Rep. 329; In re Ogles, 93 Fed. Rep. 426; In re Richard, 94 Fed. Rep. 633; In re Macon Sash etc. Co., 112 Fed. Rep. 323; Carling vs. Seymour Lumber Co., 113 Fed. Rep. 483; In re Storck Lumber Co., 114 Fed. Rep. 360; In re Rogers, 116 Fed. Rep. 435, 437; Ex parte Eames, 2 Story C. C. 322, 8 Fed. Cas. 236, 5 Law Rep. 117, 1 N. Y. Leg. Obs. 212; In re Reynolds, 9 N. B. R. 50, 20 Fed. Cas. 612. See 16 Am. & Eng. Encyc. of L. (2d ed.) 642, 5 Cyc. 240.

STATE INSOLVENCY LAW.—History: The first legislation in this state on this subject was the statute of 1852, 69, amended 1858, 58; 1860, 283; 1863, 750; supplemented 1875-6, 581, and continued in force by § 19, Pol. Code.

The statute of 1880, 82, ch. LXXXVII, repealed all former inconsistent legislation, and was doubtless prompted by the repeal of the U. S. Bankruptcy Act in 1878.

Stats. 1875-6, 581, ch. CCCCXIX.—In re Baker & Hamilton, 55 Cal. 302, 303; Lewis vs. County Clerk Santa Clara, 55 Cal. 604, 605; Seattle C. & T. Co. vs. Thomas, 57 Cal. 197, 200. § 6—Baum vs. Raphael, 57 Cal. 361, 362; Cerf vs. Oaks, 59 Cal. 132, 135. § 20—Davenport vs. His Creditors, 62 Cal. 29, 30. §§ 6, 8—Kornahrens vs. His Creditors, 64 Cal. 492, 3 Pac. Rep. 126. § 8—Dean vs. Grimes, 72 Cal. 442, 445, 14 Pac. Rep. 178.

Stats. 1880, 82, ch. LXXXVII.—§ 2, 49—In re Marsh, 115 Cal. 230, 231, 46 Pac. Rep. 1072. § 2—Chinette vs. Conklin, 105 Cal. 465, 466, 38 Pac. Rep. 1107. § 3—Taylor vs. Hill, 115 Cal. 143, 146, 44 Pac. Rep. 336, 46 Pac. Rep. 922. § 6—Stateler vs. Superior Court, 107 Cal. 536, 539, 40 Pac. Rep. 949. § 8—In re Close, 106 Cal. 574, 579, 39 Pac. Rep. 1067; In re Patton, 110 Cal. 33, 36, 42 Pac. Rep. 459. §§ 8, 9, 12—State I. & I. Co. vs. San Francisco, 101 Cal. 135, 141, 35 Pac. Rep. 549. §§ 15-33—Freeman vs. Spencer, 128 Cal. 394, 396, 60 Pac. Rep. 979. §§ 15-18—Farnsworth vs. Sutro, 136 Cal. 241-244, 68 Pac. Rep. 705. § 17—Rued vs. Cooper, 109 Cal. 682, 687, 34 Pac. Rep. 98; Vincent vs. Collins, 122 Cal. 387, 390, 55 Pac. Rep. 129. §§ 17, 45—Rosenthal vs. Perkins, 123 Cal. 240, 242, 55 Pac. Rep. 804. §§ 21, 43—Conroy vs. Dunlap, 104 Cal. 133, 134, 37 Pac. Rep. 887. § 21—People vs. Superior Court, 100 Cal. 105, 114, 34 Pac. Rep. 492. §§ 21, 25, 31—Wilson vs. Henderson, 123 Cal. 258, 263, 55 Pac. Rep. 986. §§ 23, 61—Crawford vs. Maddux, 100 Cal. 222, 224, 34 Pac. Rep. 651. §§ 24, 47, 53—Wagner vs. Superior Court, 100 Cal. 359, 360, 34 Pac. Rep. 820. § 47—Ex parte Clark, 110 Cal. 405, 406, 42 Pac. Rep. 905. § 49—In re Marsh, 115 Cal. 230, 232, 46 Pac. Rep. 1072. § 55—Priest vs. Brown, 100 Cal. 626, 631, 35 Pac. Rep. 323; La Point vs. Blanchard, 101 Cal. 549, 551, 36 Pac. Rep. 98; Ex parte Clarke, 103 Cal. 352, 37 Pac. Rep. 230; Chevalier vs. Cummins, 106 Cal. 580, 582, 39 Pac. Rep. 929; Grunsky vs. Parlin, 110 Cal. 179, 181, 42 Pac.

Rep. 575; Mathews vs. Chaboya, 111 Cal. 435, 437, 44 Pac. Rep. 169; Salisbury vs. Burr, 114 Cal. 451, 454, 46 Pac. Rep. 270; McNeil vs. Hansen, 115 Cal. 214, 216, 46 Pac. Rep. 1065; McDonald vs. Cutter, 120 Cal. 44, 45, 52 Pac. Rep. 120; Leonard vs. Miner, 120 Cal. 403, 404, 52 Pac. Rep. 655; Keech vs. Beatty, 127 Cal. 177, 180, 59 Pac. Rep. 837; Ballou vs. Andrews Banking Co., 128 Cal. 562, 564, 61 Pac. Rep. 102. §§ 55, 56, 61—La Point vs. Boulware, 104 Cal. 264, 265, 37 Pac. Rep. 927. § 60—Noble vs. Superior Court, 109 Cal. 523, 526, 42 Pac. Rep. 155. § 67—In re Choje, 112 Cal. 630, 632, 44 Pac. Rep. 1066. **Generally**—Crane vs. Pacific Bank, 106 Cal. 64, 70, 39 Pac. Rep. 215, 27 L. R. A. 562; Ward vs. Healy, 114 Cal. 191, 195, 45 Pac. Rep. 1065; Scamman vs. Bonsett, 118 Cal. 93, 95, 62 Am. St. Rep. 226, 50 Pac. Rep. 272. **Lien receiver**—Borles vs. Union B. etc. Assn., 141 Cal. 74, 76.

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INSPECTOR—FRUIT.

See Marks and Brands.

INSURANCE COMMISSIONER—DUTIES RELATING TO SURETY COMPANIES.

See tits. Bonds Required by Law; Corporations.

INSURANCE—FOREIGN COMPANIES.

The statute of 1885, 13, ch. XV, requiring companies not organized under the laws of this state to pay certain premiums to counties for the benefit of a fireman's relief

fund, was held unconstitutional in *San Francisco vs. Insurance Co.*, 74 Cal. 113, 5 Am. St. Rep. 425, 15 Pac. Rep. 380. See **KERR'S CYC. POL. CODE § 596.**

INSURANCE—STATE.

Relative to the non-insurance of property belonging to the state against risk of damage or destruction by fire.

(Stats. 1891, 70, ch. LXXVIII.)

§ 1. No property belonging to this state shall hereafter be insured against risk of damage or destruction by fire, and no policy of fire insurance now existing upon any property belonging to this state shall be renewed at the expiration thereof, except the state printing office and its contents.

§ 2. This act shall take effect immediately.

INTEREST AND SINKING FUND.

See tit. State Funds.

INTEREST—STATE BONDS.

See tits. State Debt; University of California.

INTERPRETERS—GRAND JURIES.

In relation to interpreters before grand juries.

(Stats. 1871-2, 540, ch. CCCLXXXV.)

The above statute has been carried into the Penal Code by Stats. 1905, 694, ch. DXXXIX.—See **KERR'S CYC. PEN. CODE § 925.**

An act authorizing the appointment of interpreters of Italian language in cities

of more than 100,000 inhabitants (Stats. 1885, 108, ch. CXXIV, amended 1895, 37, ch. XXXII) is of doubtful utility. As to San Francisco (see Charter of 1899, § 1, subd. 20), the power of courts to appoint interpreters in proper cases is unquestioned.

INTOXICATING LIQUORS—ACCOUNTS.

See tits. Accounts—Saloon; Children.

And see next following statutes.

INTOXICATING LIQUORS—COLLEGE CITY.

To prohibit the sale of intoxicating liquors within one mile of College City, Colusa County, state of California.

(Stats. 1875-6, 691, ch. CCCCLXXIII.)

§ 1. It shall be unlawful for any person or persons to keep or expose for sale, or sell, or give, or permit others to take, for a consideration, directly or

indirectly, any malt or spirituous, or other alcoholic liquors, upon or within one mile of the southeast corner of the plat of ground set apart for college purposes in College City, Colusa County, state of California, except for medicinal purposes.

§ 2. Any violation of section one of this act shall be deemed a misdemeanor, punishable by fine, or imprisonment in the jail of Colusa County, or both; the fine to be not less than fifty dollars nor more than one hundred dollars, and the imprisonment not to be less than thirty nor more than ninety days for each offense.

§ 3. This act shall take effect from and after its passage.

As to sale of liquor near other state institutions, the statutes of 1873-4, 12; 1880, 80, and 1895, 161, have been carried into the Penal Code by Stats. 1905, 652.—See **KERR'S CYC. PEN. CODE** § 172.

Liquor on election days.—See next following statute and note. And see tit. **Intoxicating Liquors—Mendocino Hospital**, post, and note thereunder.

INTOXICATING LIQUORS—ELECTIONS.

To prevent the sale of intoxicating beverages on election days.

(Stats. 1873-4, 297, ch. CXCVIII.)

This statute has been carried into the Penal Code by Stats. 1905, 639-645, ch. CDLXXIX.—See **KERR'S CYC. PEN. CODE** § 63b.

INTOXICATING LIQUORS—MENDOCINO HOSPITAL.

To prohibit the sale of intoxicating liquors within a certain distance of the Mendocino State Hospital for the Insane.

(Stats. 1905, 20, ch. XXVI.)

§ 1. It shall not be lawful for any person to keep any saloon or bar, or sell or offer for sale any spirituous, vinous or malt liquors, within one mile of the asylum building of the Mendocino State Hospital for the Insane near Ukiah, in the county of Mendocino, state of California; and any person violating the provisions of this statute shall be guilty of a misdemeanor, and for each offense shall be punished by imprisonment in the county jail for not exceeding six months, or by fine not less than fifty dollars, nor more than five hundred dollars; and in case of the non-payment of such fine such person may be imprisoned in the county jail at the rate of one day for each two dollars of said fine remaining unpaid.

By Stats. 1905, 652, the Statutes of 1873-4, 12; 1880, 80, and 1895, 161, are believed to have been carried into the Penal Code.—See **KERR'S CYC. PEN. CODE** § 172. But that section seems to be confined to lands of the state on which a "prison or reformatory is situated" and to the University, Soldiers'

Home, and State Capitol. Upon the interpretation of the word "reformatory" will depend the question whether liquors may be sold at or near the insane asylums of the state. The Napa hospital was specifically mentioned in § 172 of the Penal Code prior to the late amendment to that section.

INTOXICATING LIQUOR—SALE.

To prevent the sale of intoxicating liquors to persons addicted to the inordinate use of intoxicating liquors.

(Stats. 1889, 352, ch. CCXLI.)

§ 1. Any person who, after receiving notice that a person named in said notice is addicted to the inordinate use of intoxicating liquors, should the

person named in said notice be so addicted, shall thereafter, within a period of twelve months, furnish to said person so addicted to the inordinate use of intoxicating liquors any spirituous liquors, wines, or intoxicating or malt liquors, shall be guilty of a misdemeanor, and punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding two hundred dollars, or by both such fine and imprisonment. Said notice shall be in writing, and may be given by any adult member of the family of said person so addicted to the inordinate use of intoxicating liquors, or by any adult relative of said person so addicted to the inordinate use of said intoxicating liquors.

§ 2. The provisions of this act shall not prohibit any regularly licensed physician from furnishing or prescribing said liquors in case of sickness.

§ 3. This act shall take effect from and after its passage.

But see KERR'S CYC. PEN. CODE § 397, amendment 1903; and see tits. *Children; Indians*.

INTOXICATING LIQUORS—SOLDIERS' HOME.

To prevent the sale of intoxicating liquors in the immediate vicinity of soldiers' homes.

(Stats. 1895, 161, ch. CLVI.)

This statute has been carried into the Penal Code by Stats. 1905, 652, ch. CDXCI.—See KERR'S CYC. PEN. CODE § 172.

INTOXICATION.

See tit. *Officers*.

INVENTORIES—STATE AND COUNTY PROPERTY.

See tit. *Public Property*.

IONE.

See tit. *Preston School of Industry*.

IRRIGATION DISTRICTS.

To provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

(Stats. 1897, 254, ch. CLXXXIX; amended 1901, 815, ch. CCLXIX; amended 1905, 27, ch. XXXIII.)

ORGANIZATION.

§ 1. A majority in number of the holders of title, or evidence of title, to lands susceptible of irrigation from a common source and by the same system of works, such holders of title, or evidence of title, representing a majority in value of said lands, according to the equalized county assessment roll or rolls for the year last preceding, may propose the organization of an irrigation district, under

the provisions of this act. Said equalized assessment roll or rolls shall be sufficient evidence of title for the purposes of this act.

§ 2. In order to propose the organization of an irrigation district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, to lands within such proposed district, and representing the requisite majority in value of said lands, which petition shall set forth the boundaries of the proposed district, and shall state, generally, the source from which said lands are proposed to be irrigated, and the character of the works proposed to be acquired or constructed for irrigation purposes, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition must be accompanied with a good and sufficient undertaking, to be approved by said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs, in case said organization shall not be affected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper of general circulation printed and published in the county where said petition is presented, together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When such petition is presented, said board of supervisors shall hear the same, and may adjourn such hearing from time to time, not exceeding four weeks in all. And on the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable, and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from a common source and by the same system of works applicable to the other lands in such proposed district; nor shall any lands which will not, in the judgment of said board, be benefited by irrigation, by means of said system of works, be included within such proposed district. Any person whose lands are susceptible of irrigation from the same source and system of works, may, upon his application, in the discretion of said board, have such lands included within said proposed district.

§ 3. Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of sections one and two of this act, and for that purpose must hear all competent and relevant testimony offered in support or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors.

§ 4. The right of appeal from said order to the superior court of the county where said petition is heard is hereby given to any person interested who is a party to the record; provided, that if more than one appeal be taken they shall be consolidated and tried together. Such appeal shall be taken within ten days after the entry of such order upon the minutes of the board of supervisors. The appeal shall be taken and heard in the same manner as appeals from justices' courts to the superior court, except as herein otherwise provided. Upon the

appeal, the superior court may make and enter its judgment affirming, modifying, or reversing the order appealed from. Within ten days thereafter the superior court must cause its remittitur to issue to said board of supervisors, and if said order of the board of supervisors is modified or reversed, the judgment of the superior court and its remittitur shall direct the board of supervisors what order it shall enter. Such remittitur shall be filed by the clerk of the board of supervisors, and at the first regular meeting of the board thereafter, it shall cause to be entered in its minutes the order as directed by said superior court. The appeal herein provided for shall be heard and determined within thirty days from the time of filing the notice of appeal.

§ 5. If, on said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director shall be elected for each division by the electors thereof; provided, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that only three directors be elected, or that they be elected for the district at large.

ELECTION ON ORGANIZATION.

§ 6. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, and shall designate a name for the proposed district, and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or words equivalent thereto, and also the names of persons to be voted for at said election. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, but no particular form of ballot shall be required.

§ 7. At such election there shall be elected a board of directors, and an assessor, tax collector, and treasurer; provided, that where a consolidation of offices as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated.

§ 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

§ 9. The board of supervisors shall meet on the second Monday succeeding

such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that at least two thirds of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes, declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected.

§ 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last-mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

§ 11. Such election, on organization, may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

§ 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

DUTIES AND POWERS OF BOARDS OF DIRECTORS.

§ 13. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

§ 14. The board of directors shall hold a regular monthly meeting, in their office, on the first Tuesday in every month, and such special meetings as may be

required for the proper transaction of business; provided, that all special meetings must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified must be transacted at such special meeting. All meetings of the board must be public, and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote there shall be a concurrence of at least the number constituting a quorum. All records of the board shall be open to public inspection during business hours. The board of directors shall, on the first Tuesday in January of each and every year render, and immediately thereafter cause to be published, a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some paper published in the county where the office of the board of directors of such district is situated.

§ 15. The board shall have the power, and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for any canal or canals, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, either by purchase or condemnation, or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair, and improvements of said canal or canals, and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances. But no purchase of any waters, or water rights, or canals, or reservoirs, or reservoir sites, or irrigation works, or other real property of any nature or kind, for any price in excess of ten thousand dollars shall be final or binding on the district, nor shall the purchase price thereof be paid until a petition of a majority of the holders of title, or evidence of title, to lands within the district, such holders of title, or evidence of title, representing a majority in value of said land, according to the last equalized assessment roll of the district, shall have been filed with the board and an order of the board made thereon confirming such purchase. Said board may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each landowner in said district for irrigation purposes. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect, or preserve

any and all rights, privileges, and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such irrigation district. It shall be the duty of said board to establish equitable by-laws, rules, and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act.

§ 15½. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions and election precincts of the district; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in this state, shall also have the power, and such board is hereby vested with authority to lease the system of canals and works in the district, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals or works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all bids. Such lease shall in no way interfere with any rights that may have been established by law at the time such lease is made; and further provided, that the board of directors shall require a good and sufficient bond to secure the faithful performance of the lease by the lessees. [New section, Stats. 1901, 815.]

§ 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three, of the Code of Civil Procedure.

WATER REGULATIONS.

§ 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, together with the rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law.

§ 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each landowner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; provided, that any landowner may assign the right to the whole or any portion of the waters so apportioned to him.

GENERAL ELECTIONS.

§ 19. An election shall be held in each irrigation district on the first Wednesday in February, eighteen hundred and ninety-nine, and on the first

Wednesday in February in each second year thereafter, at which an assessor, a collector, and a treasurer, and directors for the district shall be elected. The person receiving the highest number of votes for any office to be filled at such election shall be elected thereto. The assessor, collector, and treasurer shall each hold office from the first Tuesday in March next after, for two years, and until his successor is elected and qualified. Within ten days after receiving their certificates of election, hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount thereof not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers.

§ 20. On the first Tuesday in March next following their election, the directors who shall have been elected at the general February election, shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. And the directors of districts now organized, who shall have been elected at the general February election of eighteen hundred and ninety-nine, shall, on the first Tuesday in March next thereafter, when they meet to organize, first classify themselves by lot into two classes as nearly equal in number as possible. And the term of office of the class having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years.

§ 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling-places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board

of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held.

§ 22. The inspector is chairman of the election board, and may administer all oaths required in the progress of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened one hour after sunrise on the morning of the election, and be kept open until sunset, when the same must be closed. The provisions of the general election laws concerning the form of ballots to be used shall not apply to elections held under this act.

§ 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots, together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

§ 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening

the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

§ 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; provided, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

§ 26. A director shall be a resident and freeholder of the irrigation district, but not necessarily of the division for which he is elected.

§ 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; provided, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

§ 28. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

TITLE TO PROPERTY.

§ 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess said property as herein provided.

ISSUANCE OF BONDS.

§ 30. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this act, the board of directors of any such district, must, as soon after such district has been organized as may be practicable, and also whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. And thereafter said board when petitioned by a majority of the holders of title, or evidence of title, to lands within the district, such holders of title, or evidence of title, representing a majority in value of said lands, according to the equalized assessment roll of the district, if such has theretofore been made, and if such has not been made, then according to the equalized county assessment roll covering the lands of such district, shall immediately call a special election, at which shall be submitted to the electors of such district, possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount as set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. Whenever thereafter a petition of the character hereinbefore provided for in this section is presented to the board it shall so declare of record in its minutes, and shall thereupon submit such questions to said electors in the same manner and with like effect as at such previous election.

§ 31. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in ten series, as follows, to wit: At the expiration of twenty-one years, five per centum of the whole number of said bonds; at the expiration of twenty-two years, six per centum; at the expiration of twenty-three years, seven per centum; at the expiration of twenty-four years, eight per centum; at the expiration of twenty-five years, nine per centum; at the expiration of twenty-six years, ten per centum; at the expiration of twenty-seven years, eleven per centum; at the expiration of twenty-eight years, thirteen per centum; at the expiration of twenty-nine years, fifteen per centum; and at the expiration of thirty years, sixteen per centum; that the several enumerated percentages being of the entire amount of the bond issue, but each bond must be made payable at a given time for its entire amount and not for a percentage. Said bonds

shall bear interest at the rate of five per centum per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. Each issue shall be numbered consecutively as issued, and the bonds of each issue shall be numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser.

§ 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous, to raise money for the construction of said canals and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks, in some newspaper published in the county where the office of the board of directors is located, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder; provided, however, that they may reject all bids. Said board shall in no event sell any of the said bonds for less than the par value thereof.

§ 33. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments, as hereinafter provided.

ASSESSMENT FOR COMPLETION OF WORKS.

§ 34. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publica-

tion of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time for holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

DUTIES OF THE ASSESSOR.

§ 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real property in the district, to the persons who own, claim, have the possession, or control thereof, at its full cash value. He must prepare an assessment book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (a) The name of the person to whom the property is assessed (if the name is not known to the assessor the property shall be assessed to "unknown owners"); (b) land by township, range, section, or fractional section, and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, locality, and the improvements thereon; (c) city and town lots, naming the city or town, and the number and block, according to the system of numbering in such city or town, and the improvements thereon; (d) the cash value of real estate, other than city or town lots; (e) the cash value of improvements on such real estate; (f) the cash value of city and town lots; (g) the cash value of improvements on city and town lots; (h) the cash value of improvements on real estate assessed to persons other than the owners of the real estate; (i) the total value of all property assessed; (j) the total value of all property after equalization by the board of directors; (k) such other things as the board of directors may require. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for such current year.

§ 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

§ 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the mean time the assessment book must remain in the office of the secretary for the inspection of all persons interested.

EQUALIZATION OF ASSESSMENT.

§ 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added.

LEVY OF AND COLLECTION OF TAXES.

§ 39. The board of directors shall then levy an assessment sufficient to raise the annual interest on the outstanding bonds, and in any year in which any bonds shall fall due must increase said assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums, in dollars and cents, to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds.

In case of the neglect or refusal of the board of directors to cause such assessments and levies to be made as in this act provided, then the assessment of property made by the county assessor and the state board of equalization shall be adopted, and shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors is situated shall cause an assessment roll for said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors, and all expenses incident thereto shall be borne by such district. In case of the neglect or refusal of the collector or treasurer of the district to perform the duties imposed by law, then the tax collector and treasurer of the county in which the office of the board of directors is situated must, respectively, perform such duties, and shall be accountable therefor upon their official bonds as in other cases.

§ 40. The assessment upon real property is a lien against the property assessed from and after the first Monday in March for any year, and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent

issue, and such lien is not removed until the assessments are paid, or the property sold for the payment thereof.

§ 41. On or before the first day of November, the secretary must deliver the assessment book to the collector of the district, who shall within twenty days publish a notice, in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable, and will become delinquent at six o'clock p. m. on the last Monday of December next thereafter, and that unless paid prior thereto, five per centum will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice, to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying, and give a receipt to such person, specifying the amount of the assessment and the amount paid, with a description of the property assessed. On the last Monday in December, at six o'clock p. m., of each year, all unpaid assessments are delinquent, and thereafter the collector must collect thereon, for the use of the district, an addition of five per centum.

PUBLICATION OF DELINQUENT NOTICE.

§ 42. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice, that unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district; provided, however, that if there should occur any error in the publication of the sale of the delinquent property, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder, the collector shall at once republish the sale of the property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, and stated in such republication.

SALE FOR DELINQUENT TAXES.

§ 43. The collector must collect, in addition to the assessments due on the delinquent list and five per centum added, fifty cents on each lot, piece, or tract of land separately assessed. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he must give notice, the col-

lector, between the hours of ten a. m. and three o'clock p. m., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; provided, that if any sale or sales shall be stayed by legal proceedings, the time of the continuance of such proceedings is not part of the time limited for making such sale or sales; and provided further, that in any district where the validity of any assessment shall be in litigation at the time this act shall take effect, the sale of any property, whether it be involved in such litigation or not, may be postponed for a time not to exceed four months.

§ 44. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate, in writing, to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the collector may designate it and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock a. m. the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry, "Sold to the district," and he shall be credited with the amount thereof in his settlement. An irrigation district as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; provided, that authority to so convey must be conferred by resolution of the board entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property.

§ 45. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder of the county in which the land is situated.

§ 46. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate,

the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests with the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money, and two per centum per month from the day of sale until redemption.

REDEMPTION OF PROPERTY SOLD FOR DELINQUENT TAXES.

§ 47. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase; provided, that all land heretofore sold at delinquent tax sale under any of the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, or the acts supplementary thereto or amendatory thereof, where deeds have not been made and delivered, or when such deed has been made to the district, and the district has not disposed of the same, may be redeemed any time within six months from January twenty-seventh, eighteen hundred and ninety-seven. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the recorder must mark the word "Redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor in office, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed.

§ 48. The matter recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged or proved is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) that the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer. Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of

all encumbrances, except when the land is owned by the United States, or this state, in which case it is prima facie evidence of the right of possession.

§ 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

§ 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof, affects the sale, or renders it void, or voidable.

§ 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

REDEMPTION OF BONDS, AND PAYMENT OF INTEREST.

§ 52. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States bonds, or the bonds of the state, which shall be kept in said "Bond Fund," and may be used to redeem said district bonds whenever the holders thereof may desire.

CONSTRUCTION OF WORKS.

§ 53. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice, by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed pro-

posals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per centum of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

§ 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw, from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same and place the same to the credit of said district, and he shall be responsible upon his official bond for the safe-keeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceeding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceeding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

§ 55. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair, and improvement of such portions of said canal and works as are completed and in use, including salaries of officers and employees, the board may in lieu (either in part or in whole) of levying assessments as herein provided for, fix rates of tolls and charges, and collect the same from all persons using said canal for irrigation and other purposes.

§ 56. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its use-

fulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

GOVERNING DIRECTORS.

§ 57. The directors, when sitting as a board, or acting under the orders of the board, shall each receive not to exceed three dollars per day, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that said board shall, upon the petition of at least fifty, or a majority of the freeholders within such district, therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than twenty days nor more than forty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act.

§ 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SPECIAL ASSESSMENTS.

§ 59. The board of directors may, at any time, when in their judgment it may be deemed advisable, call a special election and submit to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section thirty of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes," or "Assessment—No." If two thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted.

§ 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per centum for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on

the assessment roll for the current year, and then dividing the sum voted by the remainder of such aggregate assessed value. The assessments so levied shall be computed and entered on the assessment roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein; and when collected shall be paid into the district treasury for the purposes specified in the notice of such special election.

INCURRING INDEBTEDNESS.

§ 61. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per centum per annum.

GOVERNING THE USE OF WATER.

§ 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

§ 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

§ 64. Navigation shall never in anywise be impaired by the operation of this act, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs or dams now used by the owners or possessors thereof in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used, directly or indirectly, in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same.

§ 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

EXEMPTION FROM TAXATION—CREATION OF FUNDS.

§ 66. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district shall not be taxed for state and county or municipal purposes.

§ 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: Bond fund, construction fund, general fund.

GENERAL PROVISIONS.

§ 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Any one interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the supreme court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

§ 69. If no such proceedings shall have been brought by the board of directors, then, at any time within thirty days after the levy of an assessment or issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

§ 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

§ 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing, or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

§ 72. No contest of anything or matter herein provided shall be made other than within the time and manner herein specified.

§ 73. For any wilful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment payer of the district.

EXCLUSION OF LANDS.

§ 74. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

§ 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

§ 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be speci-

fied in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

§ 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

§ 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause, in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom which cannot be irrigated from, or which are not susceptible to, or would not, by reason of being permanently devoted to uses other than agricultural, horticultural, viticultural, or grazing, be directly benefited by the actual irrigation of the same from a common source, or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands of said district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works. [Amendment, Stats. 1905, 27.]

§ 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order

of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

§ 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

§ 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

§ 82. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

§ 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign

and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

§ 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made, and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligation, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

INCLUSION OF LANDS.

§ 85. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

§ 86. The holder or holders, of title, or evidence of title, representing one half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be

acknowledged in the same manner that conveyances of land are required to be acknowledged.

§ 87. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

§ 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

§ 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

§ 90. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed, and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that

purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

§ 91. If any person interested in said district, or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

§ 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

§ 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

§ 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

§ 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

§ 96. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the

estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause as in this act mentioned why the boundaries of the district should not be changed.

§ 97. In case of the inclusion of any land within any district by proceedings under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall thereafter be elected by each division. For the purposes of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

REDUCTION OF BONDED INDEBTEDNESS.

§ 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

§ 99. Notice of the said election shall be given in the same manner as provided in section thirty of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling-places, as established by said board of directors. The ballots cast at said election shall contain the words, "For reducing bonds—Yes," or, "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

§ 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness in the same manner as provided in section seventy-nine of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

LEASE OF WATER.

§ 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as

by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

§ 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

§ 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

§ 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semiannually, on the thirtieth day of December and thirtieth day of June of each years. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

§ 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

§ 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease or give such other evidence of good faith as in their judgment may be necessary.

DESTRUCTION OF UNSOLD BONDS.

§ 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

§ 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section thirty of this act in relation to calling special elections for the issuance of bonds. The notice of election must state

the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling-places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

§ 108. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

SAVING CLAUSES.

§ 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which may now be pending.

§ 110. Nothing in this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act, an act entitled an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes, approved March seventh, eighteen hundred and eighty-seven, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts so far as they may be inconsistent herewith, are hereby repealed.

§ 111. This act shall take effect from and after its passage and approval.

Stats. 1897, 254, §§ 36, 37, 38, 39, 71, 72.—Lahman vs. Hatch, 124 Cal. 1, 2, 56 Pac. Rep. 621.

CONSTITUTIONALITY "WRIGHT ACT."—There are many decisions respecting the constitutionality of the irrigation statute of 1887, commonly referred to as the "Wright Act," and construing provisions of that statute and its amendments, which it is eminently proper to consult in connection with the provisions of the later statute; and they are here given.

The statute of 1887 was amended as follows: Stats. 1889, 15, 18, 21, 212; 1891, 142, 244; 1893, 175, 276, 516, 520; 1895, 127.

See also the statute of 1891, 53, relative to redemption of land from sale for assessments, and *Hughson vs. Crane*, 115 Cal. 404, 409, 47 Pac. Rep. 120.

Upon the constitutionality of these statutes, and that such districts are quasi public corporations, see *Irrigation Dist. vs. Williams*, 76 Cal. 360-367, 18 Pac. Rep. 379; *Irrigation Dist. vs. De Lappe*, 79 Cal. 351, 356, 21 Pac. Rep. 825. And as to the statute of 1887 and its amendments, see:

Stats. 1887, 29.—§ 15—*Irrigation Dist. vs. Williams*, 76 Cal. 360, 367, 18 Pac. Rep. 379. **§§ 2, 3**—*Irrigation Dist. vs. De Lappe*, 79 Cal. 351, 356, 21 Pac. Rep. 825; *Crall vs. Irrigation Dist.*, 87 Cal. 140, 142, 26 Pac. Rep. 797. **§§ 2, 5, 11, 18**—*Board Directors vs. Tregea*, 88 Cal. 324, 337-350, 26 Pac. Rep. 237; *In re Madera Irr. Dist.*, 92 Cal. 296, 306, 27 Am. St. Rep. 106, 28 Pac. Rep. 272, 675, 14 L. R. A. 755. **§§ 37, 41**—*Tregea vs. Owens*, 94 Cal. 317, 318, 29 Pac. Rep. 643; *People vs. Selma Irr. Dist.*, 98 Cal. 206, 208, 32 Pac. Rep. 1047;

Woodward vs. Fruitvale S. Dist., 99 Cal. 554, 562, 34 Pac. Rep. 239; Rialto Irr. Dist. vs. Brandon, 103 Cal. 384, 385, 37 Pac. Rep. 484. §§ 6, 10—Directors F. Irr. Dist. vs. Abila, 106 Cal. 365, 369, 39 Pac. Rep. 793. § 17—San Diego vs. Linda Vista Irr. Dist., 108 Cal. 189, 194, 41 Pac. Rep. 291, 35 L. R. A. 33n. § 30—Cooper vs. Miller, 113 Cal. 238, 242, 45 Pac. Rep. 325; Cullen vs. Glendora W. Co., 113 Cal. 503, 510, 39 Pac. Rep. 769, 45 Pac. Rep. 822, 1047; Hughson vs. Crane, 115 Cal. 404, 409, 47 Pac. Rep. 120; Boehmer vs. Big Rock Irr. Dist., 117 Cal. 19, 28, 48 Pac. Rep. 908. § 3—In re Central Irr. Dist., 117 Cal. 382, 384, 49 Pac. Rep. 354. §§ 16, 37—Mitchell vs. Patterson, 120 Cal. 286, 289, 52 Pac. Rep. 589. §§ 12, 13, 15, 16, 35—Stimson vs. Alessandro Irr. Dist., 135 Cal. 389, 390, 67 Pac. Rep. 496, 1034; Baxter vs. Vine-land Irr. Dist., 136 Cal. 185, 188, 63 Pac. Rep. 601. §§ 18, 20, 24, 27, 28, 32—Escondido H. S. Dist. vs. Escondido Sem., 130 Cal. 128, 131, 62 Pac. Rep. 401. §§ 15, 16, 42—Sechrist vs. Rialto Irr. Dist., 129 Cal. 640, 645, 62 Pac. Rep. 261. §§ 33, 36, 39—People vs. Linda Vista Irr. Dist., 128 Cal. 477, 479, 61 Pac. Rep. 86; Perry vs. Otay Irr. Dist., 127 Cal. 565, 567, 60 Pac. Rep. 40; Nevada Nat. Bank vs. Poso Irr. Dist., 140 Cal. 344, 345, 73 Pac. Rep. 1056; People vs. Perris Irr. Dist., 142 Cal. 601, 604, 76 Pac. Rep. 381; Boskowitz vs. Thompson, 144 Cal. 724, 727, 78 Pac. Rep. 290.

Amendatory Stats. 1889, 15 and 21.—Board Directors vs. Tregoe, 88 Cal. 334, 355, 26 Pac. Rep. 237. **Amendment 1889, 15, § 22**—Mitchell vs. Patterson, 120 Cal. 286, 288, 52 Pac. Rep. 589.

Amendatory Stats. 1889, 212.—§ 3—Board Directors vs. Tregoe, 88 Cal. 334, 337, 346, 26 Pac. Rep. 237. § 5—Crall vs. Poso Irr. Dist., 87 Cal. 140, 143, 26 Pac. Rep. 797; People vs. Los Angeles, 133 Cal. 338, 343, 65 Pac. Rep. 749; In re Madera Irr. Dist.,

92 Cal. 296, 306, 330, 27 Am. St. Rep. 106, 28 Pac. Rep. 272, 675, 14 L. R. A. 755; Direc-tors F. Irr. Dist. vs. Abila, 106 Cal. 365, 369, 39 Pac. Rep. 793; Cullen vs. Glendora W. Co., 113 Cal. 503, 511, 516, 39 Pac. Rep. 769, 45 Pac. Rep. 822, 1047; In re Central Irr. Dist., 117 Cal. 382, 384, 49 Pac. Rep. 354; People vs. Linda Vista Irr. Dist., 128 Cal. 477, 479, 61 Pac. Rep. 86; Stimson vs. Ales-sandro Irr. Dist., 135 Cal. 389, 394, 67 Pac. Rep. 496, 1034; People ex rel. Fogg vs. Per-ris Irr. Dist., 132 Cal. 289, 291, 64 Pac. Rep. 399, 773; Deyoe vs. Superior Court, 140 Cal. 476, 486, 98 Am. St. Rep. 73, 74 Pac. Rep. 28; People vs. Perris Irr. Dist., 142 Cal. 601, 605, 76 Pac. Rep. 381.

Stats. 1891, 142 and 244; 1893, 175 and 276.—1891, 142—Directors F. Irr. Dist. vs. Abila, 106 Cal. 355, 364, 39 Pac. Rep. 794. § 2—Cullen vs. Glendora W. Co., 113 Cal. 503, 517, 39 Pac. Rep. 769, 45 Pac. Rep. 822, 1047. § 3—In re Central Irr. Dist., 117 Cal. 382, 384, 49 Pac. Rep. 354; Directors F. Irr. Dist. vs. Abila, 106 Cal. 355, 364, 39 Pac. Rep. 794. §§ 15, 42—Mitchell vs. Patterson, 120 Cal. 286, 288, 52 Pac. Rep. 589; People vs. Perris Irr. Dist., 142 Cal. 601, 604, 605, 76 Pac. Rep. 381. § 17—Cullen vs. Glendora W. Co., 113 Cal. 503, 521, 39 Pac. Rep. 769, 45 Pac. Rep. 822, 1047. § 22—Mitchell vs. Patterson, 120 Cal. 286, 288, 52 Pac. Rep. 589; Boskowitz vs. Thompson, 144 Cal. 724, 736, 78 Pac. Rep. 290.

Stats. 1891, 244, § 18—Hughson vs. Crane, 115 Cal. 404, 409, 47 Pac. Rep. 120; Best vs. Wohlford, 144 Cal. 733, 736, 78 Pac. Rep. 293—refer especially to bonds and description of land in assessments.

Stats. 1893, 175, 276.—Cullen vs. Glendora W. Co., 113 Cal. 503, 505, 39 Pac. Rep. 769, 45 Pac. Rep. 822, 1047. §§ 11, 13, 17—Mer-chants' Bank vs. Escondido Irr. Dist., 144 Cal. 329, 332-335, 77 Pac. Rep. 937.

IRRIGATION DISTRICTS—CONTRACTS.

Declaring upon what terms contracts between persons, companies, associations, or corporations furnishing water for irrigation to the consumers of such water shall be valid, and to provide that such contracts shall be deemed based upon sufficient consideration.

(Stats. 1901, 331, ch. CLVI.)

§ 1. It is and shall be lawful for any person, company, association, or corporation, furnishing for sale, rental, or distribution any appropriated waters for purpose of irrigation, to enter into contracts with individual consumers of such water or with bodies of such consumers, relating to the sale, rental, or distribution of such water, or any thereof, which contracts, subject to the restrictions hereinafter declared, shall be valid to all intents and purposes, any law or rule to the contrary notwithstanding.

§ 2. No such contract shall provide for the sale, rental, or distribution of any such water at any rate exceeding the established rates fixed and regulated therefor by the board of supervisors of the proper counties, or fixed and established by such person, company, association, or corporation, as pro-vided by law.

§ 3. Nothing in this act contained shall be construed to authorize or make valid any contract not made for a valuable consideration; but an agreement on the part of such person, company, association, or corporation to sell, rent, or distribute any water to a consumer, without payment in advance therefor, or upon any other terms to which such consumer is not otherwise lawfully entitled, shall be deemed and taken to be a valuable and sufficient consideration for such contract.

§ 4. Nothing in this act contained shall affect any contract made prior to the time that the board of supervisors fix and establish the rates and regulations for and under which water shall be sold and supplied.

§ 5. This act shall take effect and be in force from and after its passage.

IRRIGATION DISTRICTS—DISSOLUTION.

To provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property.

(Stats. 1903, 3, ch. V.)

§ 1. Any irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seven, eighteen hundred and eighty-seven, and all acts supplementary thereto, or amendatory thereof, including an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes," approved March thirty-one, eighteen hundred and ninety-seven, may be dissolved in the manner hereinafter provided.

§ 2. A majority in number of the holders of title, or evidence of title, to real property in any irrigation district, and a majority in value of said property according to the equalized assessment roll of said district for the year last preceding upon which any assessment has been made, may propose the dissolution of said district by a petition signed by such majority, which petition shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if such there be, together with a general description of the same, and the holders, so far as known, showing the amount of each description of indebtedness and the ownership, so far as known, of the same. Also the estimated cost of the dissolution of said district. Said petition shall also state the assets of said district, including irrigation system, if any, dams, reservoirs, canals, franchises, water rights, a detailed statement of all the lands sold to the district for assessments, and the amount of the assessments on each parcel of land sold, also all assessments unpaid, and the amount upon each lot or tract of land, and all other assets of the district; and in case any proposition has been made by the holders of said indebtedness to settle the same, said proposition, together with any plan proposed to carry the same into execution, shall be included in said petition.

§ 3. Upon the filing of said petition with the board of directors of said district said board shall call a special election, at which shall be submitted

to the electors of such district the question whether or not said district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan so proposed, or in case no plan has been proposed, then in accordance with a plan which shall be proposed by said board of directors in the notice of the election, but no such election shall be called until the assent of all the known holders of valid indebtedness against the district shall be obtained or provision shall be made in said plan for the payment of such non-assenting holders. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, the fact that it is proposed to dissolve the district, and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At such election the ballot shall contain the words "Dissolution of the district—Yes," or "Dissolution of the district—No," or words equivalent thereto.

§ 4. In case upon such canvass it is found and declared by said board of directors that two thirds of the votes cast at such election shall be cast in favor of "Dissolution of the district—Yes," then the said board of directors shall file a petition in the superior court of the county wherein is located the office of such board to determine the validity of the proceedings had and of the proposed plan for the dissolution of said district. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending; provided, that if the property of the district is situate in more than one county then the publication shall be made in one paper in each county wherein the same is situate, such paper or papers to be designated by the court having jurisdiction of the proceeding; jurisdiction shall be complete in thirty days after the completion of such notice in the manner herein provided. Any one interested may at any time before the expiration of said thirty days appear and contest the validity of the proceedings already had and of the plan proposed for the dissolution of said district, or any portion thereof, including the validity of any portion of the indebtedness set out in said petition, and the court may determine the validity of any sales for assessments, and may determine the amount of any assessment or assessments due upon the various parcels and lots of real estate within said district, and may determine the amount of any assessment or assessments theretofore paid upon the various parcels and lots of real estate therein, and may in said proceeding adjust and determine the rights and liabilities of all parties. Such action shall be speedily tried and judgment rendered. Either party shall have the right to appeal at any time within thirty days after the entering of such judgment, and the appeal must be heard and determined within three months after the taking of such appeal.

§ 5. Said petition to the superior court shall set forth the facts required to be set forth in the petition to the board of directors and all proceedings therein, and at the hearing the court shall hear and determine the regularity, legality, and correctness of all proceedings, and in doing so shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceeding herein provided. The costs of any contest may be allowed and proportioned between the parties or taxed to the losing party in the discretion of the court, and no contest of any matter or thing herein provided for shall be made other than in the time and manner herein specified.

§ 6. If no such proceeding shall have been filed by the board of directors within thirty days after the canvass of said vote, then any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located. The board of directors shall be made parties defendant and notice shall be served on the members of the board personally, if they can be found in the state, if not, then service by publication as provided in section four, shall be sufficient. Proceedings shall be had in the same manner and with the same effect as if brought by the board of directors.

§ 7. A corporation may be organized under general laws for the purpose of acquiring the assets of said district, including the irrigation system, if any, dams, reservoirs, canals, franchises and water rights, which corporation shall have all the powers, rights and franchises or corporate bodies organized under general laws, and in addition shall have such further powers as may be necessary to possess and carry on said irrigation system and exercise such franchises and water rights.

§ 8. The court in its decree shall have power to make the orders necessary to carry out said proposition for the discharge of the indebtedness and distribution of the property of said district, including the right to apportion any indebtedness found due, and to declare said portions liens upon the various parcels and lots of land within the district, and may decree a sale of its assets in such manner as may effectuate said proposition and as the said court may judge best, either in one lot or in such parcels as may be provided, and may provide for conveyance of said irrigation system, including dams, reservoirs, canals, franchises, and water rights, and also of any other assets of the district, including lands sold thereto and the assessments due it.

§ 9. The amounts of any assessment or assessments found due upon the various parcels and lots of real estate within said district, and the amounts for which sales have been made, which sales have been determined to be valid by said court, together with legal interest from the date of said sales and from the time when said assessments become delinquent, shall be liens respectively on the lots and parcels affected thereby, and the purchaser or purchasers at said sale may foreclose the same by action in the superior court, and shall in said action join all lots, assessments, and sales which may have been purchased by him and which remain unredeemed. A redemption may be made at any time by payment of the amount due to the clerk of the court

for the use of the district if before sale, and for the use of the purchaser if after sale, and the clerk shall thereupon enter a minute of said payment, which payment shall be in the discharge of said lien. Redemption from the lien created for any portion of the indebtedness can be had in this manner.

§ 10. Whenever all the property of such irrigation district shall have been disposed of, and all the indebtedness and obligations thereof, if any there be, shall have been discharged, the balance of the money of said district shall be distributed to the assessment payers in said district upon the last assessment roll in the proportion in which each has contributed to the total amount of said assessment, and the court shall enter a final decree declaring said district to be dissolved.

§ 11. This act shall take effect immediately.

IRRIGATION DISTRICTS—FUNDING BONDS.

To provide for the issue and sale or exchange of funding bonds of irrigation districts organized under and in pursuance of an act of the legislature of the state of California entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, to provide for the payment of such bonds, and for proceedings to test the validity of the same.

(Stats. 1897, 394, ch. CCLIV; amended 1901, 514, ch. CLIX.)

§ 1. Whenever an irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, or said act and the acts supplementary thereto, or amendatory thereof, has outstanding bonds, coupons, or other evidences of indebtedness, the payment thereof may be provided for by the issuance of new bonds, in the manner hereinafter prescribed.

§ 2. A majority in number of the holders of title, or evidences of title to real property in any irrigation district, subject to assessment, such holders of title, or evidences of title, representing a majority in value of the real property of such district according to the equalized assessment roll or rolls of such district for the year last preceding, may propose the funding of such bonds, coupons, or other evidences of indebtedness. Said equalized assessment roll or rolls shall be sufficient evidence of title for the purposes of this act.

§ 3. In order to propose the funding of such bonds, coupons, or other evidences of indebtedness, a petition shall be presented to the board of directors of such irrigation district, signed by a majority in number of holders of title, or evidences of title to real property in such district, and representing a majority in value of the real property of said district, subject to assessment for district purposes, which petition shall set forth the amount of bonds, coupons, or other evidences of indebtedness proposed to be funded, together

with a general description of same, also the total amount of the bonds sought to be issued (provided, that said amount shall in no case be greater than the total amount of bonds, coupons, and other evidences of indebtedness then outstanding and sought to have funded), together with a full and complete statement of the purposes for which such bonds are to be used. On presentation of such petition, the same shall be entered in full on the minutes of the board.

§ 4. Immediately after the recording of said petition the board of directors shall call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of such district, in the amount set forth in said petition, shall be issued. Notice of such election must be given by the secretary of said district by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks before such election. Such notice must specify the time of holding the election, the amount of bonds proposed to be issued, the amount of bonds, coupons, or other evidences of indebtedness proposed to be refunded, together with a general description of the same. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers; as provided by the law governing irrigation districts at the time of the holding of the election herein provided for; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such an election the ballot shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If two thirds of the votes cast at such election are "Bonds—Yes," the board of directors shall direct and cause bonds in said amount to be issued. If more than one third of the votes cast at such election are "Bonds—No," the result of such election shall be so declared. The result in either case shall be duly entered of record. [Amendment, Stats. 1901, 514.]

§§ 5, 6, 7, 8, 9, 10. Repealed. [Stats. 1901, 515.]

§ 11. If said bonds are directed to be issued as herein provided for, the board of directors shall cause the same to be issued. Said bonds shall be made payable in gold coin of the United States, and in twenty series, as follows, to wit: On the first day of January after the expiration of twenty years, five per centum of the whole amount of said bonds, and on the first day of January of each year thereafter, an equal amount of such bonds until all shall have been finally paid; that is, five per centum of the whole issue of bonds—not five per centum of each bond—each being wholly payable when due. Said bonds shall bear interest at the rate of five per centum per annum, payable semiannually on the first day of January and July of each year. They shall be negotiable in form, and shall be of denominations of not less than one hundred dollars, nor more than five hundred dollars. Said bonds shall in all respects conform to the form of bonds prescribed by the laws governing irrigation districts at the time of their issue, except as herein otherwise provided.

§ 12. It shall be unlawful to sell or exchange any of the bonds issued as herein provided, for less than their par value.

§ 13. When bonds issued under this act shall be duly executed, they shall be deposited with the treasurer of the district, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entered on their records, to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of indebtedness, the treasurer shall at once cancel such other bonds, coupons, or other evidences of indebtedness by writing across the face thereof "Canceled," and the date of cancelation, and report the same with his monthly report to the board of directors of the district, designating the bond, coupon, or other evidence of indebtedness, so that it can be identified, the date of cancelation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

§ 14. When said bonds are issued for the purpose of sale to the highest bidder, the board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money to pay bonds, coupons, or other evidences of indebtedness of the district which were outstanding at the time of the filing of said petition, and generally described therein. Before making any sale, the board shall at a meeting, by resolution, declare its intention to sell a specified amount of bonds, which resolution shall be entered in the minutes, and notice of the sale shall be given by publication thereof for at least three weeks in a newspaper published in the county in which the office of the board of directors is kept. The notice shall state that sealed proposals will be received by the board at its office for the purchase of bonds till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of bonds to the highest responsible bidder, or may reject all bids; but said bonds shall in no event be sold for less than their par value, including accrued interest. All moneys realized from the sale of bonds issued under the provisions of this act shall be paid into the hands of the district treasurer, and by him kept in a separate fund, known as the funding fund, and shall be applied exclusively to the payment of bonds, coupons, or other evidences of indebtedness of the district outstanding at the time of filing the said petition, and described therein.

§ 15. At the time fixed for the levying of assessments for other purposes authorized by the district irrigation law then in force, there shall be levied an assessment sufficient in amount to pay the principal and interest then due and unpaid on any bonds issued by authority of this act, and also the amount to become due on any such bonds during the year following such levy. The assessment so levied shall be computed and entered in the assessment roll in the same manner, and shall be collected at the same time and in the same manner as other assessments authorized by the district irrigation law then in force, and when collected, shall be paid into the district treasury, for the purposes therein authorized; and all the provisions of said district irrigation

law relating to the collection of assessments and the sale and redemption of property therefor shall be applicable to the assessments levied under this act.

§ 16. The bonds issued as herein provided for may be exchanged, at not less than their par value, for any of the indebtedness set out and described in the notice of the election authorizing the issuance of said refunding bond[s]. A contract for such exchange may be made by the board of directors upon such terms as said board may deem advisable; provided that they must receive not less than par value for the bonds so exchanged. [Amendment, Stats. 1901, 515.]

§ 17. Whenever there remains in the hands of the treasurer of any district any funding bonds voted to be issued by said district, but not used, and not necessary to be used for the funding purposes set out and described in the petition for the issuance of said bonds, then said board of directors, shall at a regular meeting, within three months after the completion of the funding, cause the same to be destroyed and a record to be made thereof, and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall be thereafter reprinted or reissued.

§ 18. Any bonds issued under the provisions of this act shall be a lien upon the real property of the district, and said bonds and the interest thereon shall be paid by revenue derived from an annual assessment upon the real property of the district, and all the real property in said district shall be and remain liable to be assessed for such payments as hereinbefore provided. [Amendment, Stats. 1901, 515.]

§ 19. This act shall take effect from and after its passage.

IRRIGATION—LOS NIETOS.

To provide for and regulate irrigation in the township of Los Nietos, in the county of Los Angeles.

(Stats. 1877-8, 374, ch. CCC.)

§ 1. The township of Los Nietos shall constitute one irrigation district, and for the purposes of this act shall be known as Los Nietos Irrigation District.

§ 2. There shall be in said Los Nietos Irrigation District a board of water commissioners consisting of three members, one overseer of water, all of whom shall be elected or appointed, and shall qualify as hereinafter provided.

§ 3. It shall be the duty of the board of supervisors of the County of Los Angeles, upon the filing of a petition signed by thirty or more of the irrigators of said Los Nietos Township, to appoint three persons, resident irrigators of said district, who shall act and constitute a board of irrigation commissioners, and also, upon petition as is required for the appointment of commissioners, appoint an overseer of water, who shall be a resident of said district. The board of supervisors shall cause to be issued to each person appointed a certificate of his appointment. All officers so appointed shall, within ten days after receiving certificates of appointment, take the usual oath of office, to be indorsed on said certificate of appointment and filed in

the office of the clerk of the county court of the said county. Said commissioners and overseer so appointed shall hold office until their successors are elected and qualified, which election shall be at the general election every two years thereafter. The commissioners appointed in compliance with the provisions of the last section shall meet within fifteen days after their appointment and qualification and elect one of their number as president, and one treasurer, and one clerk, after which time they shall be known as the board of water commissioners of Los Nietos Township, Los Angeles County. Said commissioners, before entering upon the discharge of their duties, shall each make and execute to the people of the state a good and sufficient bond in the sum of one thousand dollars, conditioned for the faithful performance of their duties.

§ 4. The overseer of water and the treasurer shall each, before taking charge of their several offices, make and execute to the Los Nietos Irrigation District a good and sufficient bond, in the sum of two thousand dollars, with two or more sureties, conditioned for the faithful performance of their duties as such officers, said bond to be approved by the county judge of the county, and filed with the clerk of the county court of said county, all of which shall be done within ten days after the organization of said board.

§ 5. It shall be the duty of the board of supervisors of the said county of Los Angeles, whenever they issue their proclamation for the election for county and township officers for said county, to insert in their said proclamation an order for the election of three commissioners and one overseer of water, for said water district, and said election of said commissioners and overseer of water shall be voted for at the same time and places and in all respects as township officers.

§ 6. As soon as the commissioners are appointed or elected and qualified as in this act provided, they shall proceed to take possession of and control of all the watercourses, ditches, dams, aqueducts, flumes, reservoirs, and irrigating structures and works in said district (except such as are owned by private parties, or by companies or corporations legally organized under the laws of this state), and shall determine the amount of water which shall be given and used as an irrigating head, and cause the same to be measured and issued to the irrigators; to use all means necessary to cause the water of said district to be utilized to the best interest of the irrigators. The board of commissioners shall have power to receive conveyances for rights of way for ditches or dams, reservoirs, and canals, and shall have power to maintain an action for the condemnation of an easement or right of way for any ditch, etc., over any lands in the district in the same manner as is now or may hereafter be provided by law for the condemnation of rights of way for public roads when, in their judgment, the necessity of the district, for the benefit of irrigation, requires it.

§ 7. Cause to be made out in alphabetical form, and entered of record, a list of all the irrigators in the district, the amount of land each desire[s] to irrigate, and the number of acres heretofore irrigated; make and declare such rules and regulations as may be just in regard to the time of irrigation, and the number of times required for the proper assurance of a crop, and for

the purposes of determining the necessity of any second, third, or fourth irrigation of any one crop may visit and examine the said crop; hear and determine as a board of arbitrators all differences arising between irrigators and the overseer of water, or between irrigators, when submitted to them; order the distribution of the water to those entitled by the overseer, beginning nearest the head or main source of the ditch, and thence to the next, and so on throughout the district; provided, that the supply of water is sufficient to water the entire district within thirty days; and in case the supply is insufficient, then the board must determine the amount of water and the time to be used, so as to insure a crop to the greater number, and not allow the water to be wasted by wetting long ditches or the watering of stock. When the water is turned in at the head of the main ditch, persons on the side ditches must receive the same by some representative of the side ditch selected by the irrigators of the said side ditch, from the overseer, and notice in writing of the time each irrigator on said side ditch is entitled to use the same; and when the water is so turned in to a side ditch, any person using the water from said side ditch who neglects or refuses to use the water shall be precluded from the use of the water until the next regular time when the water is so again turned on. No person shall be entitled or allowed to sell his run of water off of his side ditch, or to exchange runs of water off of the side ditch to which it belongs, and all persons using water from the main ditch must use the same on his turn, and in case he or they neglect or refuse to use the same at the time designated, he or they shall lose his or their run of water for that time, and shall in no case be allowed to exchange or sell his or their run of water to be taken out below the next side ditch below him or them, nor above the first side ditch above him or them.

§ 8. It shall be the duty of the overseer of water to take charge of and manage all the waters, dams, ditches, reservoirs, and aqueducts, and works of the company, and carry out generally the orders of the board of commissioners; and may appoint one or more deputies, subject to the approval of the board of irrigators; shall cause all the waters under the control of the commissioners to be properly distributed into the side ditches and to those using the water from the main ditch, but shall not turn water into any side ditch until it is fully repaired and clear of filth, and with sufficient capacity to carry the water without waste; to see that all the ditches and works of the district are kept in good repair and clear of filth. He shall prepare and keep a book, in which he shall keep a correct account between the district and the irrigators, in debit and credit form. He shall collect all moneys arising from the sale of water or any other source; he shall pay over the same to the treasurer of the district once every month and take his receipt for the same, and file the same with the clerk of the district. He shall be a conservator of the peace so far as any breach of the same may occur under his jurisdiction. In the discharge of his duties under the provisions of this act, he shall have power, either with or without process, to arrest any person or persons for unlawful interference with any of the waters or works of the district, and take him or them before any magistrate of the township, to be dealt with according to law.

§ 9. It shall be the duty of the treasurer of said district to receive and

receipt for and safely keep any and all moneys paid to him belonging to the district; keep an account of the same in a book to be kept for that purpose; pay the same out on the presentation of warrants signed by the board of commissioners, or a majority of them, and attested by the clerk of the board; note on the face of each warrant paid and date of payment; file and keep the same as vouchers; make an appropriate entry of the same; present an account current, accompanied by vouchers, to the board quarterly.

§ 10. Regular sessions of the board of irrigation shall be held on the first Monday in each month at Downey City, and may adjourn from day to day, as in their judgment the necessity requires, and may call special meetings at any time by the order of the president. All moneys paid into the treasury shall be paid into a general fund and used for the payment of any debts or claims against the district. All claims against the district shall be audited and allowed by the board of commissioners, and shall be recorded and numbered consecutively by the clerk of the board, and the nature of the claim.

§ 11. Each and every person entitled to water of the district and who desires to use the same for irrigating or manufacturer's [manufacturing] purposes, shall be required, after notice from the overseer, of not less than three days' verbal notice, or by written notice left at his or her place of residence, perform or cause to be performed one day's work for each five acres of land desiring [he desires] to irrigate, or if less than five acres, then in the same proportion as one is to five; or if the water is desired for manufacturing purposes, one day's work shall be required for every ten days' use of water; provided, that any person not desiring to work may commute by paying to the overseer one dollar and fifty cents at the time the work is demanded or required to be performed; and provided further, that no person shall be entitled to the use of any water for either irrigation or manufacturing purposes unless he or they either work or cause the work to be done at the time and place required by the overseer, or that he or they have commuted in money; provided, that no person shall be required to do any work, or pay any money for work done or to be done, below where he gets his or their water from the ditch.

§ 12. Eight hours shall be the time for a day's work under the provisions of this act, and any person idling away his time when doing work under this act shall be charged at the rate of twenty-five cents per hour by the overseer, and the same to be deducted from his time. And any person furnishing substitutes to work on the ditch must furnish able-bodied men, or they shall be rejected by the overseer.

§ 13. Any person or persons obstructing the waters of any ditch, flume, or aqueduct, by dam or otherwise, causing the same to overflow or waste, or who shall put, or cause to be put, any filth in any ditch, flume, aqueduct, or reservoir, or by cutting the same or taking the water therefrom without authority or the consent of the overseer, his deputies, or the board of commissioners, shall be deemed guilty of misdemeanor, and, upon conviction by any tribunal of competent jurisdiction, shall be punished by fine of not less than fifty nor more than five hundred dollars, or imprisonment in the county jail for not more than ninety days, or by both fine and imprisonment, at the discretion of the court; and the judgment of the court shall be that in case

the fine is not paid immediately, the defendant shall be committed to the county jail until the fine is liquidated at the rate of one dollar per day.

§ 14. This act shall not be so construed as to deprive any man of a vested right of property.

§ 15. In case any person shall be damaged by the breaking of any ditch, dam, aqueduct, or reservoir under the management and control of said board of commissioners, said district shall be liable for said damages; provided, that the district shall not be liable for any damage caused by the breaking of any of the works of the district caused by the stock act, or negligence of the party damaged.

§ 16. The board of commissioners shall have power to levy a tax on the lands irrigated in said district, not to exceed ten cents per acre in any one year, whenever in their judgment it becomes necessary for the interest of the district.

§ 17. Whenever a vacancy occurs in the office of any of the officers under the provisions of this act, such vacancy shall be filled by appointment by the members of the board remaining in office; provided, that a vacancy of two members of the board at the same time the vacancies shall be filled by the board of supervisors, upon petition, as is required in the first instant [instance].

§ 18. Each member of the board of commissioners shall receive for his services as such officer a reasonable compensation for his services, not to exceed three dollars per day for each day actually employed in the discharge of the duties of his office.

§ 19. The overseer of water shall receive for his services not to exceed three dollars per day for his services, for each day actually employed in the discharge of his duties. Each deputy shall receive a reasonable compensation for his services.

§ 20. The clerk of the board shall receive one dollar per day extra of his pay as commissioner for such clerical service.

§ 21. The treasurer shall receive four per centum on all moneys of the district committed to his care and keeping.

§ 22. All necessary books, stationery, etc., for the officers of the district, necessary for the use of the offices and officers of the district, shall be a charge upon and paid by the district.

§ 23. The irrigators of any other township or district within the county of Los Angeles desiring to avail themselves of the provisions of this act, may, by petition to the board of supervisors, signed by a majority of the irrigators of the said township or district, be, by an order of the said board of supervisors, spread upon the minutes of said board, declare the said township or district to be an irrigating district, and shall appoint three persons to act as commissioners, and one overseer, as is required in section three of this act. And said board of commissioners and overseer shall qualify and in all respects be governed and controlled as in this act provided, and any and all water districts formed under this section shall be governed and controlled in all respects, receive all the benefits, and be amenable to all the penalties of this act.

§ 24. All acts and parts of acts heretofore passed on the subject of irrigation, so far as they relate to Los Nietos Township, is [are] hereby repealed.

§ 25. This act shall take effect from and after its passage.

Cate vs. Sanford, 54 Cal. 24.

IRRIGATION—WATER COMPANIES.

To regulate and control the sale, rental, and distribution of appropriated water in this state, other than in any city, city and county, or town therein, and to secure the rights of way for the conveyance of such water to the places of use.

(Stats. 1885, 95, ch. CXV; amended 1897, 49, ch. LII; 1901, 80, ch. LXII.)

§ 1. The use of all water now appropriated, or that may hereafter be appropriated, for irrigation, sale, rental, or distribution, is a public use, and the right to collect rates or compensation for use of such water is a franchise, and except when so furnished to any city, city and county, or town, or the inhabitants thereof, shall be regulated and controlled in the counties of this state by the several boards of supervisors thereof, in the manner prescribed in this act.

§ 2. The several boards of supervisors of this state, on petition and notice as provided in section three of this act, are hereby authorized and required to fix and regulate the maximum rates at which any person, company, association, or corporation, having or to have appropriated water for sale, rental, or distribution in each of such counties, may and shall sell, rent, or distribute the same.

§ 3. Whenever a petition of not less than twenty-five inhabitants, who are taxpayers of any county of this state, shall, in writing, petition the board of supervisors thereof, to be filed with the clerk of said board, to regulate and control the rates and compensation to be collected by any person, company, association, or corporation, for the sale, rental, or distribution of any appropriated water, to any of the inhabitants of such county, and shall in such petition specify the persons, companies, associations, or corporations, or any one or more of them, whose water rates are therein petitioned to be regulated or controlled, the clerk of such board shall immediately cause such petition, together with a notice of the time and place of hearing thereof, to be published in one or more newspapers published in such county; and if no newspaper be published therein, then shall cause copies of such petition and notice to be posted in not less than three public places in such counties, and such publication and notice shall be for not less than four weeks next before the hearing of said petition by said board; such notice to be attached to said petition shall specify a day of the next regular term of the session of the said board not less than thirty days after the first publication or posting thereof, for the hearing of said petition, which shall impart notice to all such persons, companies, associations, and corporations mentioned in such petition, and all persons interested in the matters of such petition and notice. Such board may also cause citations to issue to any person or persons within such county to attend and give evidence at the hearing of such petition, and may compel such attendance by attachment.

§ 4. At the hearing of said petition the board of supervisors shall estimate, as near as may be, the value of the canals, ditches, flumes, water chutes, and all other property actually used and useful to the appropriation and furnishing of such water, belonging to and possessed by each person, association, company, or corporation, whose franchise shall be so regulated and controlled; and shall in like manner estimate as to each of such persons, companies, associations, and corporations, their annual reasonable expenses, including the cost of repairs, management, and operating such works; and, for the purpose of such ascertainment, may require the attendance of persons to give evidence, and the production of papers, books, and accounts, and may compel the attendance of such persons and the production of papers, books, and accounts, by attachments, if within their respective counties.

§ 5. In the regulation and control of such water rates for each of such persons, companies, associations, and corporations, such board of supervisors may establish different rates at which water may and shall be sold, rented, or distributed, as the case may be; and may also establish different rates and compensation for such water so to be furnished for the several different uses, such as mining, irrigating, mechanical, manufacturing, and domestic, for which such water shall be supplied to such inhabitants, but such rates as to each class shall be equal and uniform. Said board of supervisors, in fixing such rates, shall, as near as may be, so adjust them that the net annual receipts and profits thereof to the said persons, companies, associations, and corporations so furnishing such water to such inhabitants shall be not less than six nor more than eighteen per centum upon the said value of the canals, ditches, flumes, chutes, and all other property actually used and useful to the appropriation and furnishing of such water of [to] each of such persons, companies, associations, and corporations; but in estimating such net receipts and profits, the cost of any extensions, enlargements, or other permanent improvements of such water rights or waterworks shall not be included as part of the said expenses of management, repairs, and operating of such works, but when accomplished, may and shall be included in the present cost and cash value of such work. In fixing said rates, within the limits aforesaid, at which water shall be so furnished as to each of such persons, companies, associations, and corporations, each of said board of supervisors may likewise take into estimation any and all other facts, circumstances, and conditions pertinent thereto, to the end and purpose that said rates shall be equal, reasonable and just, both to such persons, companies, associations, and corporations, and to said inhabitants; and each such board of supervisors shall designate what proportion of the rates so fixed shall be for the said annual reasonable expenses of each of such persons, companies, associations or corporations, and what proportion of the rates so fixed shall be for the said net annual receipts and profits to such persons, companies, associations or corporations. The said rates, when so fixed by such board, shall be binding and conclusive for not less than one year next after their establishment, and until established anew or abrogated by such board of supervisors, as hereinafter provided. And until such rates shall be so established or after they shall have been abrogated by such board of supervisors, as in this act provided, the actual rates established and collected by each of the persons, companies, associations, and corporations now

furnishing, or that shall hereafter furnish, appropriated waters for sale, rental, or distribution to the inhabitants of any of the counties of this state, shall be deemed and accepted as the legally established rates thereof. [Amendment, Stats. 1901, 80.]

§ 6. At any time after the establishment of such water rates by any board of supervisors of this state, the same may be established anew, or abrogated in whole or in part by such board, to take effect not less than one year next after such first establishment, but subject to said limitation of one year, to take effect immediately in the following manner: Upon the written petition of inhabitants as hereinbefore provided, or upon the written petition of any of the persons, companies, associations or corporations, the rates and compensations of whose appropriated waters have already been fixed and regulated, and are still subject to such regulation by any board of supervisors of this state, as in this act provided; and upon the like publication or posting of such petition and notice, and for the like period of time as hereinbefore provided, such board of supervisors shall proceed anew, in the manner hereinbefore provided, to fix and establish the water rates for such person, company, association, or corporation, or any number of them, in the same manner as if such rates had not been previously established, and may, upon the petition of such inhabitants, but not otherwise, abrogate any and all existing rates theretofore established by such board. All water rates, when fixed and established as herein provided shall be in force and effect until established anew or abrogated, as provided in this act.

§ 7. Each board of supervisors of this state, when fixing and establishing, or fixing and establishing anew, or abolishing any previously established water rates, as hereinbefore provided, shall cause a record to be made thereof in the records of such board, and cause the same to be published or posted in the manner and for the time required for the publication or posting of said petitions and notices.

§ 8. Any and all persons, companies, associations, or corporations, furnishing for sale, rental, or distribution, any appropriated waters to the inhabitants of any county or counties of this state (other than to the inhabitants of any city, city and county, or town, therein), shall so sell, rent, or distribute such waters at rates not exceeding the established rates fixed and regulated therefor by the boards of supervisors of such counties, or as fixed and established by such person, company, association, or corporation, as provided in this act.

§ 9. If any person, company, association, or corporation, whose water rates for any county of this state have been fixed and regulated by a board of supervisors, as in this act provided, and while such rates are in force, shall collect, for any appropriated water, furnished to any inhabitant of such county water rates in excess of such established rates, shall be liable, in an action by any such inhabitant so aggrieved, to a recovery of the whole rate so collected, together with actual damages sustained by such inhabitant, with costs of suit.

§ 10. Every person, company, association, and corporation, having in any county in the state (other than in any city, city and county, or town therein) appropriated waters for sale, rental, or distribution, to the inhabitants of such county, upon demand therefor, and tender in money of such established water rates, shall be obliged to sell, rent, or distribute such water to such inhabitants

at the established rates regulated and fixed therefor, as in this act provided, whether so fixed by the board of supervisors or otherwise, to the extent of the actual supply of such appropriated waters of such person, company, association, or corporation, for such purposes. If any person, company, association, or corporation, having water for such use, shall refuse compliance with such demand, or shall neglect, for the period of five days after such demand, to comply therewith to the extent of his or its reasonable ability so to do, shall be liable in damages to the extent of the actual injury sustained by the person or party making such demand and tender, to be recovered, with costs.

§ 11. Whenever any person, company, association, or corporation shall have acquired the right to appropriate water, or shall have acquired the right to appropriate such water in this state, such person, company, association, or corporation, may proceed to condemn the lands and premises necessary to such right of way, under the provisions of title seven of part three of the Code of Civil Procedure of this state, and amendments made and to be made thereto, and all the provisions of said code, so far as the same can be made applicable, relating to the condemnation and taking of property for public uses, shall be applicable to the provisions of this act.

§ 11½. Nothing in this act contained shall be construed to prohibit or invalidate any contract already made, or which shall hereafter be made, by or with any of the persons, companies, associations, or corporations described in section two of this act, relating to the sale, rental, or distribution of water, or to the sale or rental of easements and servitudes of the right to the flow and use of water; nor to prohibit or interfere with the vesting of rights under any such contract. [New section, Stats. 1897, 49.]

§ 12. This act shall take effect and be in force from and after its passage.

It is believed that the foregoing act fully supersedes Stats. 1880, 16, ch. XXI.—McFadden vs. Los Angeles County, 74 Cal. 571, 573, 16 Pac. Rep. 397; Crow vs. San Joaquin etc. Irr. Co., 130 Cal. 309, 313, 62 Pac. Rep. 562,

1058; Fresno Canal etc. Co. vs. Park, 129 Cal. 437, 446, 62 Pac. Rep. 87; Hildreth vs. Montecito Creek W. Co., 139 Cal. 22, 28, 72 Pac. Rep. 395.

JAILS.

See tits. **Hair-Cutting; Matrons; Parol Commissioners; Prisons; State Prisons.**

JAPANESE WOMEN.

See tits. **Asiatics; Prostitution.**

See **KERR'S CYC. PEN. CODE** § 174.

JUDGES OF THE PLAINS.

Concerning judges of the plains (jueces del campo), and defining their duties. (Stats. 1851, 515, ch. CXXXI; amended 1857, 158, ch. CXXXIV; 1863, 497, ch. CCCXXXVIII.)

§ 1. The board of supervisors of each county in this state may, at their first regular meeting in each year; appoint such number of judges of the plains for their respective counties, as they may deem necessary. Said judges of the plains shall hold their office for the term of one year, and until their successors are appointed and qualified. [Amendment, Stats. 1863, 497.]

§ 2. Judges of the plains are hereby required, and it is made their duty, to attend all rodeos, or gathering of cattle, whether for the purpose of marking and branding, or for the purpose of separating cattle, when called upon by any ranchero, farmer, or owner of stock, that may be made in their respective counties. [Amendment, Stats. 1863, 497.]

§ 3. Whenever any dispute arises respecting the ownership, mark, or brand of any horse, mule, jack, jenny, or horned cattle, it shall be the duty of the judges of the plains to decide on such dispute.

§ 4. Any party interested in the dispute of the ownership, mark, or brand of any animals as enumerated above, may appeal from the decision of the judges of the plains to a justice of the peace of the township where such dispute may arise; provided, such appeal be made within twenty-four hours after the judgment has been notified to him.

§ 5. All persons traveling with cattle, sheep, hogs, horses, or mules, shall, in case said animals be not of their own mark and brand, be obliged to procure from the person or persons from whom they obtain such cattle, or from the justice of the peace residing nearest to the farm or place where they obtain the same, a certificate of the number and kind of such cattle, and the mark and brand which distinguished the same; and they shall allow such animals to be subject to the inspection of owners of lands through which they may pass, and upon arriving at any city, town, or village, shall present themselves to a judge of the plains, and state the number and kind of such animals; and it shall be the duty of the judge of the plains to examine the band or drove, and accompany them out of the precinct of such city, town, or village.

§ 6. That if the number and kind of animals do not agree with the report of the owner or person in charge, and with the certificates in his possession, the judge of the plains shall detain the band or drove, and take the owner or person in charge before the nearest magistrate for examination.

§ 7. The judge of the plains shall arrest and take before any magistrate any person who may be accused to him or whom he has reasonable ground to suspect of killing, hiding, or otherwise taking away cattle, horses, or other animals belonging to others, and shall execute any warrant delivered to him by any magistrate for larceny or other offense concerning said described property; he shall execute any warrant delivered to him by any justice of the peace, for the purposes herein named, and otherwise shall have and exercise the same powers as any sheriff, constable, or police officer, in the cases provided for by the act entitled "An act to punish vagrants, vagabonds and dangerous and suspicious persons," approved April thirtieth, eighteen hundred and fifty-five, and the act amendatory thereof, approved February nineteenth, eighteen hundred and fifty-six, for making an arrest, or the service of process, or other services in criminal cases, he shall receive the same fees or compensation as the sheriff. [Amendment, Stats. 1857, 158.]

§ 8. That should complaint be brought against any judge of the plains for dereliction of duty, the same being sustained, [he] shall be considered as guilty of a misdemeanor, and shall be liable to prosecution for the same.

§ 9. The judge of the plains shall receive such compensation for his services as may be fixed upon by the board of supervisors at the time of his appointment,

not to exceed the sum of five dollars for each day actually employed, and which shall be paid by the party in default, or by the party requiring his services. [Amendment, Stats. 1863, 497.]

§ 10. The board of supervisors may make such other local regulations with respect to the duties of the judges of the plains, that they may deem necessary. [Amendment, Stats. 1863, 497.]

§ 11. This act shall take effect from and after the first day of July; and all laws now in force in this state, having relation to judges of the plains, are hereby repealed.

JUDGMENTS.

See tits. **Counties; Municipal Corporations.**

JURORS—FEES.

See tit. **Fees of Officers.**

Jury fees.—The following portion of Stats. 1869-70, 148-176, ch. CXLIV, relative to fees of jurors in civil cases, has been held not repealed by the codes or subsequent legislation, to wit: "In civil cases, the party in whose favor verdict is rendered, before the same be entered, shall pay the jury fees, but the same may be recovered as costs from the party losing the case."—*Carpenter vs. Jones*, 121 Cal. 362, 53 Pac. Rep. 842.

An act was passed in 1901 (Stats. 1901, 684, ch. CCXXXIII) for the purpose of paying fees to jurors who had served since the

passage of the act of 1895 and had not received their fees, but it was held unconstitutional, as being in the nature of a "gift."—*Powell vs. Phelan*, 138 Cal. 271, 71 Pac. Rep. 335; and see *Jackson vs. Baehr*, 138 Cal. 266, 71 Pac. Rep. 167.

On the general subject, see *Rhodes vs. Spencer*, 68 Cal. 199, 8 Pac. Rep. 855; *Jacobs vs. Elliott*, 104 Cal. 318, 320, 37 Pac. Rep. 942; *Mason vs. Culbert*, 108 Cal. 247, 248, 41 Pac. Rep. 464; *Carpenter vs. Jones*, 121 Cal. 362, 364, 53 Pac. Rep. 842; *Hilton vs. Curry*, 124 Cal. 84, 86, 56 Pac. Rep. 784.

JUSTICES' COURTS—JURISDICTION.

See **KERR'S CYC. CODE CIV. PROC.** § 103, amended 1903; codifying Stats. 1873-4, 937; 1889, 451; 1899, 143.

JUSTICES OF THE PEACE—CITIES.

See **KERR'S CYC. CODE CIV. PROC.** § 103.

JUTE GOODS.

Fixing the price and conditions of sale at which jute goods shall be sold by the state.

(Stats. 1893, 54, ch. XLII.)

§ 1. It shall be the duty of the state board of prison directors, from time to time, to fix the price, and to give public notice of the same, at which jute goods shall be sold by the state, but at no time shall the price fixed be more than one cent per bag in excess of the net cost of producing the same, exclusive of prison labor; and it is made the duty of state prison authorities to confine the sale of jute goods to consumers direct, but no order shall be filled for any one individual or firm, during any one year, for more than five thousand grain bags, except on request of the warden, and the unanimous approval of the state board of prison directors.

§ 2. Demands for jute goods by consumers shall be promptly filled in the order in which they are made; but when the supply is short, demands shall be

registered at the prison in the order of their arrival, and filled from the output of the jute mill in the order of registration; provided, that on and after the fifteenth day of June of each year, by and with the consent of a majority of the board of prison directors, the warden may fill orders for larger quantities to actual consumers, as they may, in their judgment, deem expedient; provided, that orders of farmers shall take precedence over all others; provided further, that ten per centum of the purchase price shall accompany each order, and the remaining portion must be paid upon delivery of the goods.

§ 3. All orders for jute goods must be accompanied by an affidavit setting forth that the amount of goods contained in the order are for individual and personal use of the applicant, said affidavit to be subscribed and sworn to before some notary public, or by a justice of the peace, residing in the township in which the applicant resides; provided, that any applicant, as heretofore provided for, who falsely and fraudulently procures jute goods under the provisions of this act, shall be guilty of a misdemeanor.

§ 4. This act shall take effect immediately.

See tit. **State Prisons—Jute Fund.**

JUVENILE COURT.

See tit. **Children.**

KEEPER OF ARCHIVES.

See tits. **Secretary of State; State Archives.**

KERN COUNTY.

To provide one additional judge of the superior court of the county of Kern.
(Stats. 1903, 30, ch. XXVIII.)

§ 1. The number of judges of the superior court of the county of Kern is hereby increased from one (1) to two (2).

§ 2. Within ten (10) days after the passage of this act the governor shall appoint one (1) additional judge of the superior court of the county of Kern, who shall hold office until the first Monday after the first day of January, anno Domini one thousand nine hundred and five (1905); and at the next general election to be held in November, anno Domini one thousand nine hundred and four (1904), one (1) judge of said court in addition to the present number provided by law for said county shall be elected to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said one (1) additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as that of the other judge of the superior court of said county now authorized by law.

§ 4. This act shall take effect immediately from and after its passage.

KESHER SHEL BARSEL—INCORPORATION.

Consult Stats. 1867-8, 201, ch. CCVIII.

KINGS COUNTY—CREATING.

To create the county of Kings, to define the boundaries thereof, fix the county seat thereof, and to provide for its organization and election of officers, and to classify said county.

(Stats. 1893, 176, ch. CL.)

§ 1. There may be formed out of the western part of Tulare County a new county, to be called the county of Kings, in the manner and subject to the conditions herein named.

§ 2. The boundaries of the said county of Kings shall be as follows: Beginning at the point where the fourth standard line south of Mount Diablo base line intersects or crosses the boundary line as now established by law between Tulare and Fresno counties; thence east to the northeast corner of section one, in township seventeen south, of range twenty-two east, Mount Diablo base and meridian; thence south six miles; thence east three miles; thence south nine miles to the southeast corner of section sixteen, in township nineteen south, range twenty-three east, Mount Diablo base and meridian; thence west three miles to the southeast corner of section thirteen, township nineteen south, range twenty-two east, Mount Diablo base and meridian; thence south nine miles to the southeast corner of township twenty south, range twenty-two east, Mount Diablo base and meridian; thence west to the northeast corner of township twenty-one south, range twenty-two east, Mount Diablo base and meridian; thence south twenty-four miles to the boundary line between Kern and Tulare counties as now established by law; thence west along the said boundary line between Kern and Tulare counties, to the corner common to the counties of Tulare, Monterey, San Luis Obispo, and Kern, as now established by law; thence in a northwesterly direction along the boundary line between the counties of Monterey and Tulare, as now established by law, to the corner common to the counties of Tulare, Monterey and Fresno; thence in a northeastern direction along the boundary line between Fresno and Tulare counties, as now established by law, to the place of beginning.

§ 3. The seat of justice of said county of Kings shall be at the city of Hanford until otherwise provided by law.

§ 4. The governor shall, when this act takes effect, appoint five persons, residents and electors of the county of Kings, who shall be and constitute a board of commissioners to perfect the organization of said county, a majority of whom shall constitute a quorum. Said commissioners shall meet in the city of Hanford within twenty days after their appointment, and after being duly sworn to faithfully discharge their duties as prescribed in this act, shall organize by electing one of their number president, and shall elect a clerk, who shall also be duly sworn to faithfully discharge his duties as clerk of said board of commissioners. Three of the members of said board shall be necessary to transact any business, and a majority of the votes of the members present at any meeting shall control in all matters coming before it. It shall be the duty of said board of commissioners after they shall have duly organized, at their first meeting to divide the county of Kings into five supervisorial districts, as nearly equal in population as may be practicable, and shall designate the boundaries and number of each, and shall establish and designate the several election precincts in

said county, and the house or place in each precinct where the election herein-after provided for must be held. Said commissioners, and the clerk elected by them, are hereby authorized and required to discharge the same duties as are now required by law of boards of supervisors and county clerks in the counties of this state, so far as the same apply to holding elections, canvassing returns, and issuing certificates of election. They shall keep a full record of their proceedings, transmitting to the secretary of state a certified copy thereof, filing the originals with the original election returns in the county clerk's office, as soon as he shall have been qualified, and thereupon the powers and duties of said commissioners shall cease and terminate.

§ 5. Within six months from the time of the first meeting of the commissioners hereinbefore provided for, said commissioners shall order an election to be held in said county of Kings. There shall be chosen at said election a judge of the superior court, a district attorney, a county clerk, a sheriff, a tax collector, a treasurer, a recorder and auditor, an assessor, a superintendent of schools, a county surveyor, a coroner, a public administrator, and one supervisor for each supervisor district; provided, that all duly elected and qualified supervisors of Tulare County, who, at the taking effect of this act, are residents of the county of Kings, shall hold their offices for the time provided by law, upon having duly qualified as supervisors of the county of Kings, for the respective districts in which they reside, as said districts are organized by action of the board of commissioners provided for in this act. At said election there shall be submitted to the qualified electors of said county of Kings, as hereinafter described, the question whether they desire a separate county government; and for the purpose of ascertaining the choice of said electors, the ballots used at said election shall have printed thereon the words "For the new county of Kings—Yes," "For the new county of Kings—No;" and all ballots on which a cross is marked with a stamp after the words "For the new county of Kings—Yes," shall be counted in favor of such separate county government; and all ballots on which a cross is marked with a stamp after the words "For the new county of Kings—No," shall be counted against such separate county government. Said election shall be conducted in every respect, except as otherwise herein provided, in accordance with the general election law for the election of county and township officers.

§ 6. All qualified electors of this state, who have been residents and electors of the territory comprising the county of Kings for ninety days preceding the election provided for in section five of this act, shall be qualified to vote at said election. The register of Tulare County used at the general election held in the year eighteen hundred and ninety-two, in the territory comprising the county of Kings, shall be prima facie evidence of the qualification of electors. The county clerk of Tulare County is hereby directed to furnish the commissioners of Kings County a certificate, under seal, showing the additional names of voters on the great register of Tulare County registered as residing in the territory of the county of Kings since the last great register of Tulare County was printed; and the certificate of the county clerk of Tulare County, under seal, showing the registration of any qualified voter who resides in the territory forming the county of Kings, up to the date of election, shall entitle the holder thereof, if otherwise qualified by law, to vote at said election.

§ 7. It shall be the duty of secretary of state to furnish to the clerk of said board of commissioners the quantity of ballot paper ordered by said clerk, for use at the election provided for in this act, upon payment of the cost of such paper.

§ 8. If at said election two thirds of the votes cast on the question of separate county government shall be in favor of such separate county government, then the said territory hereinabove described shall be and become a separate county from and after the day upon which the returns of said election shall be ascertained and declared by said board of commissioners. But if at such election less than two thirds of the qualified electors voting for and against the creation of the proposed county vote for the creation of said county, then this act shall cease to be of any force or effect.

§ 9. Sealed returns from the officers of election of the several precincts shall be made to the board of commissioners, at such office as they shall select in the city of Hanford, within six days after the day of election.

§ 10. Each person elected to fill an office of said county, under the provisions of this act, shall qualify in the manner provided by law for such officers, and shall enter upon the discharge of the duties of his office within twenty days after the receipt of the certificate of his election. The person elected as judge of the superior court shall qualify before the president of said board of commissioners; and persons elected to offices of said county other than the office of judge of the superior court shall qualify before the judge of the superior court, or before the president of said board of commissioners, which said president of said board of commissioners, for said purpose, shall have power to administer to each of said persons his official oath.

§ 11. The officers elected or appointed under the provisions of this act shall each perform the duties and receive the compensation now provided by general law for the office to which he has been appointed or elected, in counties of the class to which the county of Kings belongs, under the general classification of counties in this state; and until otherwise provided by law, said county shall be classified as a county of the forty-third class.

§ 12. All justices of the peace, and all constables, duly elected and qualified residents of the county of Kings at the taking effect of this act, shall hold their offices for the terms provided by law, upon having duly qualified as justices and constables of the county of Kings for the respective townships in which they reside. All school trustees, acting as such at the time of the taking effect of this act, residents of the county of Kings, shall hold their offices for the time provided by law, upon having duly qualified as such for the respective school districts in which they severally reside, as such districts are now organized.

§ 13. The notaries public of Tulare County, residents of the county of Kings at the dates of their appointments, shall hold their offices until the expiration of their terms.

§ 14. The judge of the superior court chosen under the provisions of this act shall hold his office until the first Monday after the first day of January, eighteen hundred and ninety-seven, and until his successor is elected and qualified. The assessor and supervisors elected under the provisions of this act shall hold their offices until the first Monday after the first day of January, eighteen hundred

and ninety-five, or until their successors are elected and qualified. The other officers hereinbefore enumerated shall hold their offices until the first Monday after the first day of January, eighteen hundred and ninety-five, or until their successors are elected and qualified. The successors of the officers elected under this act shall be chosen at the general election established by law which takes place next preceding the expiration of their respective terms of office.

§ 15. It shall be the duty of the tax collector of the county of Tulare, upon the demand of the tax collector of the county of Kings, to furnish, assign, and transfer to the tax collector of the county of Kings a complete list of all unpaid taxes assessed and levied during the year eighteen hundred and ninety-two, on property within the boundaries of the county of Kings. The tax collector of the county of Tulare shall file a duplicate list of such unpaid taxes assessed within the boundaries of the county of Kings, with the county auditor of Tulare County. The tax collector of the county of Kings shall give to the tax collector of the county of Tulare a receipt for said list of unpaid taxes, and shall file a duplicate list with the auditor of the county of Kings, and thereupon all such unpaid taxes shall become payable to the tax collector of the county of Kings, and he is hereby authorized to collect and receipt for the same.

§ 16. The superintendent of schools of the county of Tulare shall furnish the superintendent of schools of the county of Kings with a certified copy of the last school census list of the different school districts in the territory set apart to form the county of Kings, and draw his warrant on the treasurer of Tulare County in favor of superintendent of schools of the county of Kings, for all money that is or may be due, by apportionment or otherwise, to the different school districts of the county of Kings. The auditor of the county of Tulare shall in like manner draw his warrant in favor of the auditor of the county of Kings for all money that is or may be due, by apportionment or otherwise, to the different road district funds in the territory set apart to form the county of Kings, and said funds shall be properly credited to the respective districts in said Kings County.

§ 17. The board of supervisors of Kings County are hereby authorized to provide suitable books, and contract with some competent person to transcribe from the records of Tulare County such parts thereof as relate to property situated in Kings County, and said records, when so transcribed and certified, shall have the same force and effect as such original records. The compensation for said services shall be fixed and allowed by the board of supervisors of Kings County, not to exceed for transcribing fifteen cents per folio. The recorder of Tulare County shall examine said transcript and certify to the correctness of each deed, mortgage, and other instruments, and affix his seal to the same; for which service he shall receive a sum not to exceed twenty-five cents for each instrument so examined, certified, and sealed.

§ 18. The county of Kings shall be attached to and form a part of the sixty-fourth assembly district and of the thirty-second senatorial district as now established until otherwise provided by law.

[§ 19.] This act shall take effect and be in force from and after its passage and approval.

Kings County vs. Johnson, 104 Cal. 198, 199, 37 Pac. Rep. 870; People vs. Markham, 104 Cal. 232, 236, 37 Pac. Rep. 918; Tulare County vs. Kings County, 117 Cal. 195, 49 Pac. Rep. 8.

KINGS RIVER.

See tit. **Fish and Game.**

KLAMATH COUNTY.

Stats. 1873-4, 755, ch. CCCCXXX, supplemented 1875-6, 603, ch. DXX, annexing the territory then known as Klamath County to counties of Humboldt and Siskiyou. These statutes have served their purpose except

upon matters of boundary, and as to Siskiyou, that matter is fixed by § 3913, Pol Code. —See *People ex rel. Love vs. Nally*, 49 Cal. 478, 479

LABELS—PRODUCE AND MANUFACTURED GOODS.

To prevent fraud and imposition in the matter of stamping and labeling produce and manufactured goods.

(Stats. 1887, 17, ch. XXI.)

This statute has been carried into the Penal Code by Stats. 1905, 669, ch. DIX. —See **KERR'S CYC. PEN. CODE** § 349a and note thereto.

See tit. **Fruit—Marks and Brands**; also **KERR'S CYC. CIV. CODE** § 991 note, pars. 77, 81, 133, 137-152 et seq., 178-184, as to fraud and imposition in trade-marks.

LABOR—CONTRACTS.

To prevent misrepresentations of conditions of employment, making it a misdemeanor to misrepresent the same and providing penalties therefor.

(Stats. 1903, 269, ch. CCXXIX.)

§ 1. It shall be unlawful for any person, partnership, company, corporation, association, or organization of any kind, doing business in this state directly or through any agent or attorney, to induce, influence, persuade, or engage any person to change from one place to another in this state, or to change from any place in any state, territory, or country to any place in this state, to work in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning the kind or character of such work, the compensation therefor, the sanitary conditions relating to or surrounding it, or the existence or non-existence of any strike, lockout, or other labor dispute affecting it and pending between the proposed employer or employers and the persons then or last theretofore engaged in the performance of the labor for which the employee is sought.

§ 2. Any violation of section one or section two hereof [sic] shall be deemed a misdemeanor, and shall be punished by a fine of not exceeding two thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

§ 3. This act shall take effect on the date of its passage.

See Liens.—Consult the recent case of *Lochner vs. State of New York*, U. S. supreme court decision of April 17, 1905, Supreme Court Reporter of May 15, 1905, and the various decisions there cited.

The statute of 1903, 119, commonly referred to as the "eight-hour law," has been carried into the Penal Code by Stats. 1905, 666.—See **KERR'S CYC. PEN. CODE** § 653c.

LABOR DISPUTES.

See tits. **Employer and Employee; Labor Contracts.**

LABOR—STATISTICS.

To establish and support a bureau of labor statistics.

(Stats. 1883, 27, ch. XXI; amended 1889, 6, ch. X, and 1901, 12, ch. XXIII.)

§ 1. As soon as possible after the passage of this act, and every four years thereafter, the governor of the state shall appoint a suitable person to act as commissioner of a bureau of labor statistics. The headquarters of said bureau shall be located in the city and county of San Francisco; said commissioner to serve for four (4) years, and until his successor is appointed and qualified.

§ 2. The commissioner of the bureau, before entering upon the duties of his office, must execute an official bond in the sum of five thousand (5000) dollars and take oath of office, all as prescribed by the Political Code for state officers in general.

§ 3. The duties of the commissioner shall be to collect, assort, systematize, and present, in biennial reports to the legislature, statistical details, relating to all departments of labor in the state, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on daily labor for their support, the probable chances of all being employed, the operation of labor-saving machinery in its relation to hand labor, etc. Said statistics may be classified as follows:

First—In agriculture.

Second—In mechanical and manufacturing industries.

Third—In mining.

Fourth—In transportation on land and water.

Fifth—In clerical and all other skilled and unskilled labor not above enumerated.

Sixth—The amount of cash capital invested in lands, buildings, machinery, material, and means of production and distribution generally.

Seventh—The number, age, sex, and condition of persons employed; the nature of their employment; the extent to which the apprenticeship system prevails in the various skilled industries; the number of hours of labor per day; the average length of time employed per annum, and the net wages received in each of the industries and employments enumerated.

Eighth—The number and condition of the unemployed, their age, sex, and nationality, together with the causes of their idleness.

Ninth—The sanitary condition of lands, workshops, dwellings, the number and size of rooms occupied by the poor, etc.; the cost of rent, fuel, food, clothing, and water in each locality of the state; also the extent to which labor-saving processes are employed to the displacement of hand labor.

Tenth—The number and condition of the Chinese in the state; their social and sanitary habits; number of married, and of single; the number employed, and the nature of their employment; the average wages per day at each employment; and the gross amount yearly; the amounts expended by them in rent, food, and clothing, and in what proportion such amounts are expended for foreign and home productions, respectively; to what extent their employment comes in competition with the white industrial classes of the state.

Eleventh—The number, condition, and nature of the employment of the inmates of the state prison[s], county jails, and reformatory institutions, and to what extent their employment comes in competition with the labor of mechanics, artisans, and laborers outside of these institutions.

Twelfth—All such other information in relation to labor as the commissioner may deem essential to further the object sought to be obtained by this statute, together with such strictures on the condition of labor and the probable future of the same as he may deem good and salutary to insert in his biennial reports.

§ 4. It shall be the duty of all officers of state departments, and the assessors of the various counties of the state, to furnish, upon the written request of the commissioner, all the information in their power necessary to assist in carrying out the objects of this act; and all printing required by the bureau in the discharge of its duty shall be performed by the state printing department, and at least three thousand (3000) copies of the printed report shall be furnished the commissioner for free distribution to the public.

§ 5. Any person who wilfully impedes or prevents the commissioner or his deputy in the full and free performance of his or their duty, shall be guilty of a misdemeanor, and upon conviction of the same shall be fined not less than ten (10) nor more than fifty (50) dollars, or imprisonment not less than seven (7) nor more than thirty (30) days in the county jail, or both.

§ 6. The office of the bureau shall be open for business from nine (9) o'clock a. m. until five (5) o'clock p. m. every day except non-judicial days, and the officers thereof shall give to all persons requesting it all needed information which they may possess.

§ 7. The commissioner shall have power to send for persons and papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being hereby qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in the office of said commissioner; he shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, warehouse, manufacturing or mercantile establishment, or any agent or employee of such principal, owner, operator, manager, or lessee who shall refuse to said commissioner, or his duly authorized representative, admission therein, or who shall, when requested by him, wilfully neglect or refuse to furnish to him any statistics or information pertaining to his lawful duties, which may be in the possession or under the control of said principal, owner, operator, lessee, manager, or agent thereof, shall be punished by a fine of not less than fifty nor more than two hundred dollars. [Amendment, Stats. 1889, 6.]

§ 8. No use shall be made in the reports of the bureau of the names of individuals, firms, or corporations supplying the information called for by this act, such information being deemed confidential, and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment in the county jail not to exceed six months. [New section added, Stats. 1889, 6.]

§ 9. The commissioner shall appoint a deputy, who shall have the same powers as the said commissioner, and such agents or assistants, not exceeding three, as he may from time to time require, at such a rate of wages as he may prescribe, but said rate must not exceed four dollars per day and actual traveling expenses for each person while employed; he shall procure rooms necessary for offices, at a rent not to exceed fifty dollars per month. [Section 8 of said law changed to section 9 and amended, Stats. 1889, 6.]

§ 10. The salary of the commissioner shall be three thousand dollars per annum, and the salary of the deputy commissioner shall be eighteen hundred dollars per annum, to be audited by the controller and paid by the state treasurer, in the same manner as other state officers; there shall also be allowed a sum not to exceed forty-five hundred dollars per annum for the salary of agents or assistants, for traveling expenses, and for other contingent expenses of the bureau. [Section 9 of said law changed to section 10 and amended, Stats. 1889, 6. Section 10 was repealed, Stats. 1899, 6.]

§ 11. This act shall take effect and be in force from and after its passage.

§ 12. Whenever complaint is made to the commissioner that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or painting of building are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner shall immediately cause an inspection to be made of such scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, iron, or other parts connected therewith. If after examination such scaffolding or any of such parts is found to be dangerous to life or limb, the commissioner shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner, deputy commissioner, or agent or assistant making the examination shall attach a certificate to the scaffolding or the slings, hangers, irons, ropes or other parts thereof, examined by him, stating that he has made such examination and that he found it safe or unsafe as the case may be. If he declares it unsafe, he shall at once in writing notify the person responsible for its erection of the fact and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection or by conspicuously affixing it to the scaffolding or the part thereof declared to be unsafe. After such notice has been so served or affixed the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such manner as to render it safe, in the discretion of the officer who has examined it or of his superiors. The commissioner, his deputy and any duly authorized representative whose duty it is to examine or test any scaffolding or part thereof as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom and placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time. [New section added, Stats. 1901, 12.]

LABOR STATISTICS—REPORTS.

Directing the commissioner of the bureau of labor statistics to collect certain statistics, and present them in biennial reports, and making it the duty of certain officers to furnish such statistics in compliance with the provisions of this act.

(Stats. 1905, 109, ch. CXIII.)

§ 1. The commissioner of the bureau of labor statistics is hereby directed, in addition to his other duties, to collect and present in his biennial report to the legislature, statistics relating to marriage, divorce, and crime.

§ 2. It is hereby declared to be the duty of all officers of each respective county, city, or city and county, in addition to their other duties, whose duty it is to keep a record of marriage, divorce, or crime, and they must furnish to the commissioner of the bureau of labor statistics, upon his request, whatever data it may be necessary for said commissioner to acquire in complying with the provisions of section one of this act.

§ 3. This act shall take effect and be in force immediately upon its passage and approval.

See tits. **Day of Rest; Drug Stores—Hours of Labor; Factories; Employer and Employee; Employment Agent; Labels; Labor Contracts; Labor Statistics; Liens; Office—Eligibility; Public Service.**

See next following statute as to **Wages**; and see **KERR'S CYC. PEN. CODE** § 653c, and Stats. 1905, 666, as to general **Eight-Hour Law**, and note appended to **Drug Stores**, ante p. 417.

LABOR—WAGES AND SALARIES.

To protect the wages of labor and the salaries and fees of subordinate officers.

(Stats. 1871-2, 951, ch. DCXXXVII.)

§ 1. Every person who employs laborers upon the public works, and who takes, keeps, or receives any part or portion of the wages due to such laborers from the state or municipal corporation for which such work is done, is guilty of a felony.

§ 2. Every officer of the state, or any county, city, or township therein, who keeps or retains any part or portion of the salary or fees allowed by law to his deputy, clerk, or subordinate officer is guilty of a felony.

LAKE BIGLER.

To legalize the name of Lake Bigler.

(Stats. 1869-70, 64, ch. LVIII.)

§ 1. The lake situate near the summit of the Sierra Nevadas, in the counties of El Dorado and Placer, shall be known as Lake Bigler, and the same is hereby declared to be the official name of said lake, and the only name to be regarded as legal in official documents, deeds, conveyances, leases and other instruments of writing to be placed on state or county records, or used in reports made by state, county, or municipal officers.

See tit. **Fish and Game.**

LAKE CHABOT.

See tit. **Fish and Game.**

LAKE MERRITT.

See tit. Fish and Game.

LAKE PERALTA.

See tit. Lake Merritt.

LAKE TAHOE WAGON ROAD.

To create the office of Lake Tahoe wagon road commissioner, providing the term of office and compensation of such commissioner, defining his duties, and making an appropriation for the salary and expenditures provided for, and authorized by this act.

(Stats. 1897, 388, ch. CCXLV; amended 1899, 236, ch. CCLIII.)

§ 1. The office of Lake Tahoe wagon road commissioner is hereby created. Such commissioner shall be appointed by the governor of this state, and his term of office shall be four years from and after the date of his appointment, and until his successor is appointed and qualified.

§ 2. Said commissioner shall take the same oath of office as is provided by law for other state officers, and, before entering upon the discharge of his duties, shall give bond to the state, with sufficient sureties, to be approved by the governor, in the sum of five thousand dollars, for the faithful performance of his duties as such officer.

§ 3. Said commissioner shall receive from the state a salary of fifty dollars per month, payable monthly, which salary shall be paid out of the state treasury upon warrants drawn by the controller in the same manner as the salaries of other state officers are paid. He shall also receive his necessary traveling expenses while engaged in the performance of his official duties, such traveling expenses to be allowed by the state board of examiners.

§ 4. Said commissioner shall have the care, control, management, and supervision of that certain wagon road belonging to the state of California, known as the "Lake Tahoe wagon road," situated in the county of El Dorado, in said state, and commencing at the junction of said road with the Placerville and Newtown road, a short distance easterly from the village of Smith's Flat, in said county, and running thence to a point on the east boundary line of this state at or near Lake Tahoe. It shall be his duty to keep said road, and the bridges and culverts thereon, in good repair and condition, and he shall keep said road free from obstructions and open for travel at all times, except when prevented by snow or severity of climate. He shall repair or rebuild said road, bridges, and culverts whenever and wherever necessary, and shall construct new bridges and culverts when necessary or proper, and may alter or change said road when necessary or proper to improve the same, and may and shall do all things necessary or proper to care for, manage, maintain, improve, and protect said road, together with its bridges and culverts, and to otherwise perform his duties as such commissioner; and in so doing he is authorized to employ all necessary assistance and procure all necessary materials, implements and appliances; provided, that before any of the moneys herein appropriated are expended on said Lake Tahoe state wagon road, it shall be the duty of the highway commissioner (provided for

in an act entitled "An act to create a department of highways for the state of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year," approved April first, eighteen hundred and ninety-seven) to make or cause to be made all necessary surveys, plans, and specifications for contemplated contract work in connection with said Lake Tahoe wagon road, and upon their completion the Lake Tahoe wagon road commissioner shall be empowered to advertise for bids for said work as covered by said surveys, plans, and specifications, and to let the contract or contracts for the same to the lowest responsible bidder; provided, that before any payments are made for said work it shall have been first inspected by the highway commissioner (of the department of highways) and by him certified to the state board of examiners, as fulfilling all the conditions of the contract and plans and specifications covering said work; and all claims for said work shall be further audited and approved by the state board of examiners, and such having been done, the controller shall draw his warrants, from time to time, as may be necessary, in favor of the person, or persons, to whom said money is due, and the treasurer shall pay the same; provided, furthermore, that the expenditure of all money for the making of plans, specifications, or surveys, and the employment of all engineers or draftsmen therefor, and the purchase of all apparatus or supplies therefor, shall be within the jurisdiction of the highway commissioner (of the department of highways), and he shall have the power to employ all such engineers and draftsmen, and to purchase all engineering apparatus and supplies necessary for the carrying out of the provisions of this act; but all claims for such service or material furnished shall be before payment audited and approved by the state board of examiners, and such having been done the controller shall draw his warrants for the same, and the treasurer shall pay said warrants. [Amendment, Stats. 1889, 236. Amendatory act of 1899, 236, also contained the two following appropriations in § 2: "There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty-five thousand dollars to carry out the provisions of said act for the remainder of the fiftieth fiscal year and for the fifty-first and fifty-second fiscal years. Of said sum of twenty-five thousand dollars the sum of five thousand dollars is made available immediately for paying the salary, traveling, and other expenses incurred by said Lake Tahoe state wagon road commissioner, and to pay for making of surveys, plans, and specifications by the state highway commissioner as herein provided, and for other expenses incident thereto. The sum of twenty thousand dollars is hereby set apart and made available from and after January first, A. D. nineteen hundred, for repairing and improving said road and structures thereon and the building of any necessary new road structures thereon." § 3 repealed conflicting acts; § 4 fixed time when original act went into effect.]

§ 5. All expenditures authorized by the provisions of this act, except the salary of said commissioner, shall be subject to the approval of the state board of examiners. The state controller shall draw his warrants for all expenditures so approved by said board, and the state treasurer shall pay the same.

§ 6. There is hereby appropriated out of any money in the state treasury not

otherwise appropriated, the sum of ten thousand (\$10,000.00) dollars, for the purpose of paying the salary of said commissioner, and the other expenses and expenditures authorized or directed by the provisions of this act for the remainder of the forty-eighth fiscal year and for the forty-ninth and fiftieth fiscal years.

§ 7. This act shall take effect and be in force from and after its passage.

As to the acquisition of the Lake Tahoe wagon road by the state, see Stats. 1895, 119, ch. CXXVIII.

LAKES—LOWERING LEVELS OF.

Authorizing the United States government to lower the water levels of any or all of the following lakes: Lower or Little Klamath Lake, Tule or Rhett Lake, Goose Lake, and Clear Lake, situated in Siskiyou and Modoc counties, and to use any part or all of the beds of said lakes for the storage of water in connection with the irrigation and reclamation operations conducted by the reclamation service of the United States; also ceding to the United States all right, title, interest or claim of the state of California to any lands uncovered by the lowering of the water levels of any or all of said lakes not already disposed of by the state.

(Stats. 1905, 4, ch. VI.)

§ 1. That for the purpose of aiding in the operations of irrigation and reclamation conducted by the reclamation service of the United States, established by the act of Congress approved June seventeenth, nineteen hundred and two (32 Stats. 388), known as the Reclamation Act, the United States is hereby authorized to lower the water levels of any or all of the following lakes: Lower or Little Klamath Lake, Tule or Rhett Lake, Goose Lake, and Clear Lake, situated in Siskiyou and Modoc counties, as shown by the map of the United States Geological Survey, and to use any part or all of the beds of said lakes for the storage of water in connection with such operations.

§ 2. And there is hereby ceded to the United States all the right, title, interest, or claim of this state to any lands uncovered by the lowering of the water levels, of any or all of said lakes, not already disposed of by this state; and the lands hereby ceded may be disposed of by the United States free of any claim on the part of this state, in any manner that may be deemed advisable by the authorized agencies of the United States, in pursuance of the provisions of said reclamation act; provided, that this act shall not be in effect as to the lakes herein named which lie partly in the state of Oregon, until a similar cession has been made by that state.

LAND CLAIMS—SPANISH.

To provide for the preservation of the Spanish archives, title papers of land claims, and records relating thereto, in the custody of the United States surveyor-general for California.

(Stats. 1865-6, 312, ch. CCLXXXI.)

§ 1. It is hereby made the duty of the secretary of state of California, by and with the consent of the surveyor-general of the United States for California, to cause all the original Spanish title papers relating to land claims

in this state, derived from the Spanish or Mexican governments, and now on file in the archives in the custody of the said surveyor-general, to be perpetuated and authenticated in the manner hereinafter provided.

§ 2. All original grants and documents in the Spanish language, relating to the title of lands in this state, with accurate translations thereof, shall be carefully engrossed in suitable books, to be provided for that purpose.

§ 3. There shall be carefully prepared a duplicate copy of said records and translations for each county in the state of all titles to land claims within the limits of said county, which copy shall be placed in the custody of the county recorder thereof, and be and become a part of the public records of such county.

§ 4. The execution of the work called for in section two of this act shall be under the supervision of Rufus C. Hopkins, keeper of archives in the office of said surveyor-general.

§ 5. These records shall in each case be authenticated by the said surveyor-general, under his seal of office, and the said translations by the said keeper of archives, under his oath, and thereafter be made receivable as prima facie evidence in all the courts in this state, with like force and effect as the originals, and without proving the execution of such originals.

§ 6. The sum of eight thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the purpose of paying the expenses of engrossing and translating the said Spanish records and translations provided for in this act, and the controller of state is hereby authorized and directed to draw his warrants for portions of said sum from time to time, as they shall become due, upon the certificate of said keeper of archives, approved by the secretary of state, and the treasurer of state is hereby authorized and directed to pay the same out of any money in the state treasury not otherwise appropriated; provided, that the cost of engrossing shall not exceed, per folio, the charges authorized to be made by the recorder of the county of San Francisco for a like class of work, and the cost of translation shall not exceed that now allowed for translating the state laws into Spanish.

See tits. **Landmarks**; **Mineral Lands**, post.

LANDS OF STATE—CEDING TO UNITED STATES.

Granting certain lands to the United States.

(Stats. 1862, 552, ch. CCCCXXXII.)

§ 1. All lands belonging to this state, and situated within any Indian reservation belonging to the United States, in this state, are hereby granted to the United States, for the use of said reservation; provided, that nothing herein contained shall be construed to affect in any manner the rights of parties who have taken up or purchased any such lands belonging to the state, whether patents have issued therefor or not.

§ 2. This act shall take effect from and after its passage.

See next two following statutes.

LANDS OF STATE—CEDING TO UNITED STATES.

Ceding to the United States of America jurisdiction over lands in this state ceded to the United States.

(Stats. 1891, 262, ch. CLXXXI.)

§ 1. The state of California hereby cedes to the United States of America exclusive jurisdiction over such piece or parcel of land as may have been or may be hereafter ceded or conveyed to the United States, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of this state and the service of civil process therein.

§ 2. This act shall take effect immediately.

LANDS OF STATE—CEDING TO UNITED STATES.

Ceding to the United States of America jurisdiction over all lands within this state which have been or may hereafter be acquired by the United States for military purposes.

(Stats. 1897, 51, ch. LVI.)

§ 1. The state of California hereby cedes to the United States of America exclusive jurisdiction over all lands within this state now held, occupied, or reserved by the government of the United States for military purposes or defense, or which may hereafter be ceded or conveyed to said United States for such purposes; provided, that a sufficient description by metes and bounds, and a map or plat of such lands be filed in the proper office of record in the county in which the same are situated; and provided further, that this state reserves the right to serve and execute on said lands all civil process, not incompatible with this cession, and such criminal process as may lawfully issue under the authority of this state against any person or persons charged with crimes committed without said lands.

§ 2. This act shall take effect immediately.

LANDS OF STATE—CERTIFICATES.

Respecting the payment in full by holders of certificates of purchase for lands sold by the state of California prior to March twenty-seventh, eighteen hundred and seventy-two, and for which the said state has at any time heretofore issued certificates of purchase to subsequent purchasers.

(Stats. 1889, 428, ch. CCLXXVIII.)

§ 1. Whenever application has been made to purchase land from this state, and payment only in part has been made to the treasurer of the proper county for the same, and a certificate of purchase has been issued to the applicant prior to the twenty-seventh day of March, eighteen hundred and seventy-two, and whenever such applicant, his assignee or assignees, shall have failed for five years to pay to the state the arrears of principal or of interest due to the state for said land, and the state shall at any time heretofore have issued a certificate of purchase for the same land, or any part thereof, to a subsequent purchaser, then, unless the holder or holders of such prior certificate

shall pay the entire residue of the interest remaining unpaid for such purchase within six months from and after the passage of this act, such holder or holders shall be deemed to have lost all right to the land described in said certificate, or to complete the purchase of such land, and all moneys heretofore paid to the state of California on such purchase shall be deemed and taken to be forfeited to the state. Nothing herein contained, however, shall be deemed or taken to give to or confer upon the holder or holders of such prior certificates, or any of them, as against the state of California, or any subsequent purchasers therefrom, or against the holders of subsequent certificates of purchase, any other or greater right to the lands herein referred to than is now held by the holder or holders of such prior certificates, or to confer upon such holder or holders any new right, or to affect or impair the rights of such subsequent purchasers or their assigns.

§ 2. The mere fact of previous part payment shall not of itself confer on such prior purchaser or his assigns any right to complete the purchase, if he or they be not otherwise entitled so to do, as against the state, and a subsequent purchaser or his assigns; provided, that this act shall not apply to any action now pending commenced within five years.

§ 3. This act shall take effect from and after the date of its passage.

As to the Act of 1872, 587, ch. CCCCXVIII, amended 1877-8, 914, ch. DLXXII, and other acts validating certificates, see *Klauber vs. Higgins*, 117 Cal. 451-465, 49 Pac. Rep. 466.

Other decisions under that statute and its amendment of 1877-8, 914, are as follows:

Duncan vs. Gardner, 46 Cal. 24, 26; *Upham vs. Hosking*, 62 Cal. 250-259; *McCreery vs. Fuller*, 63 Cal. 30; *Gilson vs. Robinson*, 68 Cal. 539, 544, 10 Pac. Rep. 193; *People ex rel. Lynch vs. Martz*, 74 Cal. 110, 112, 15 Pac. Rep. 449.

LANDS OF STATE—COMMISSIONERS.

To abolish the state board of tide-land commissioners, and to repeal sections three hundred and sixty-five and six hundred and ninety-eight of the Political Code.

(Stats. 1875-6, amendments, ch. XLIX, Code Amdts. (Pol. Code pt.), 15.)

§ 1. The state board of tide-land commissioners is hereby abolished.

§ 2. All books, maps, papers, and documents belonging to the archives of said board, and all other property of the state under its custody or control, must be deposited with and kept and preserved by the surveyor-general of the state.

§ 3. Sections three hundred and sixty-five and six hundred and ninety-eight of the Political Code are hereby repealed.

§ 4. An act entitled "An act supplementary to and amendatory of an act supplementary to and amendatory of an act entitled an act to survey and dispose of certain salt-marsh and tide lands belonging to the state of California, approved March thirtieth, eighteen hundred and sixty-eight, also an act approved April first, eighteen hundred and seventy," approved March thirtieth, eighteen hundred and seventy-four, is hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage.

Board of Tide-Land Commissioners.—For the purpose of surveying certain salt-marsh and tide lands of the state a board of tide-land commissioners was created by Stats. 1867-8, 716, ch. DXLIII, amended 1869-70,

541, ch. CCCLXXXVIII; and 1873-4, 858, ch. DCXI.

This is understood to be the legislation repealed by the foregoing statute.

Section 3488 of the Political Code, as orig-

inally adopted, contained the following concluding clause: "The lands mentioned and described in an act to survey and dispose of certain salt-marsh and tide lands belonging to the state of California, approved March thirtieth, eighteen hundred and sixty-eight, and in the act supplementary and amendatory thereto, approved April first, eighteen hundred and seventy, must be disposed of as in such acts provided, which are hereby continued in force."

That section has been amended in 1889, 1891, and 1901; and the foregoing clause has been continued in the section.

Also see note tit. **Swamp-Land District Funds**, post.

By Stats. 1875-6, 798, ch. DXXVII, a state commission to examine into the sale and disposal of state lands was provided, to exist for one year. A full report to the legislature was required. The commission was appointed.—*Ball vs. Kenfield*, 55 Cal. 320.

LANDS OF STATE—EXAMINATION.

To provide for an examination into the sale and disposal of state lands.

(Stats. 1875-6, 798, ch. DXXVII.)

The full purposes of the act have been accomplished; the existence of the commission was limited to one year.

LANDS—FORFEIT TO STATE.

Forfeiting to the state of California all payments for state lands where a fraudulent title was sought to be obtained thereto.

(Stats. 1905, 338, ch. CCCXXXII.)

§ 1. Whenever it shall appear by final decree of any court of competent jurisdiction that title to any lands subject to sale by the state of California was obtained, or sought to be obtained, by fraudulent means, or in any manner contrary to the laws of this state relating to the acquisition of its public domain, all payments made in the interest of said fraudulent title shall revert to the state of California without suit, and it shall thereupon become the duty of the state surveyor-general and ex officio register of the state land office to cancel all evidence of title to any land embraced in such fraudulent or invalid location, and to restore said land to public entry.

§ 2. This act shall take effect from and after the date of its passage.

LANDS—GOVERNMENT CORNERS.

To further perpetuate the markings of the government survey.

(Stats. 1905, 102, ch. CVIII.)

§ 1. When in the performance of his official duties any county surveyor shall find a government corner which has been marked by any government surveyor by placing charcoal in the ground, or by a wooden stake, earth mound, or other perishable monument, it shall be his duty to re-mark said corner by placing therein a monument of heavily galvanized iron pipe or galvanized iron stake not less than two inches in diameter and not less than two feet long, or other monument not less in size and equally imperishable.

§ 2. All such monuments located in public highways shall be placed with the top not less than twelve inches below the surface of the ground, but when not located in public highways they shall be placed with the top six inches above the surface of the ground. If the top of the monument is placed above the ground, it shall be not less than four feet long, if of metal.

§ 3. The surveyor shall note witness objects that are within a reasonable distance of any corner, and state distance and course from said corner, and

record the same in a properly indexed record book kept in the county surveyor's office, which shall be a public record.

§ 4. All boards of supervisors are required to furnish all necessary pipes or stakes for monuments for their respective counties without cost, on demand.

LANDS OF STATE—LEGALIZING APPLICATIONS.

To legalize applications heretofore made for the purchase of lands belonging to this state, and to confirm the title of the purchasers under such application.

(Stats. 1871-2, 622, ch. CCCCXXV.)

§ 1. All applications heretofore made for the purchase of lands belonging to this state under the provisions of any act authorizing the sale of state lands, shall be good and valid, although the land described in such application and affidavit may be styled salt-marsh and tide land, when in fact it is swamp and overflowed land; or may be styled swamp and overflowed land, when in fact it is salt-marsh and tide land; or may be styled swamp and overflowed and salt-marsh and tide land, when in fact it may be either. And the application first made shall have the preference by whatever style it may describe the land; provided, the same shall be in all other respects substantially conformable to law.

§ 2. In all cases where patents have been or may hereafter be issued upon any such application or affidavits as described in section one of this act for any such land, the same shall be deemed and held to convey the legal title to the land in such patent or patents described to the purchaser therein mentioned, by whatever style such land may be designated in such patent; and the state of California does hereby grant to the purchasers named in such patents, or their assigns or grantees, in case the title has been transferred, all its right, title, and interest in and to the lands in such patents described.

§ 3. The provisions of this act shall not be construed to recognize, confirm, or validate any title to any lands lying within five miles of the city and county of San Francisco or of the city of Oakland, or within one and a half miles of the state prison at San Quentin.

§ 4. This act shall take effect and be in force from and after its passage.

Johnson vs. Squires, 55 Cal. 103, 104; Klauber vs. Higgins, 117 Cal. 451, 463, 49 Pac. Rep. 466.

LANDS—STATE.

For the relief of purchasers of state lands.

(Stats. 1871-2, 587, ch. CCCCXVIII; amended 1877-8, 914, ch. DLXXII.)

§ 1. When application has been made to purchase lands from this state, and payment made to the treasurer of any county of this state, in whole or in part, and a certificate of purchase, or a patent, has been issued to the applicant, the title of the state to said lands is hereby vested in said applicant, or his assigns, upon his making full payment therefor; provided, that no other application has been made for the purchase of the same lands prior to the issuance of said certificate of purchase; provided further, that

this act shall not apply to school lands, except to the amount of three hundred and twenty acres to any one purchaser, nor shall it be construed to remedy any defect in any application, or the issuing of any certificate other than that of payment in the wrong county, nor otherwise to conflict with or limit the provision of the act hereby amended. [Amendment, 1877-8, 914.]

§ 2. When part payment only has been made for lands sold by this state and certificates of purchase issued for the same, and said lands have been subsequently sold under execution and a sheriff's deed issued therefor, the register of the state land office is hereby directed to issue to the grantee named in said deed or to his assigns a patent for said lands, upon his producing and surrendering said sheriff's deed and assignment, if any there be, and making full payment to the state for said lands.

§ 3. Whenever the state has issued a certificate of purchase for any land sold as swamp and overflowed, and the United States has sold and issued a patent for the same land, and the title of the United States is held and owned by the purchaser from the state or his assigns, or where the land so purchased from the state shall prove not to have been its property, the amount paid to the state for such land shall be refunded to such purchaser or his assigns, and the board of supervisors of the county in which the land is situated shall draw a warrant on the treasurer of the county for such amount, and the said treasurer shall pay the same out of moneys in the swamp-land fund of the county credited to such purchaser.

§ 4. The provisions of this act shall not apply to any lands within the county of San Diego, or within five miles of the city and county of San Francisco, or within five miles of the city of Oakland, or within one and a half miles of the state prison at San Quentin.

§ 5. This act shall take effect and be in force from and after its passage.

Stats. 1871-2.—Duncan vs. Gardner, 46 Cal. 24, 25; Yoakum vs. Brower, 52 Cal. 373, 376; Fletcher vs. Mower, 55 Cal. 119, 122; Rowell vs. Perkins, 56 Cal. 219, 224; Muller vs. Carey, 58 Cal. 539, 541; Upham vs. Hosking, 62 Cal. 250, 259; McCreery vs. Fuller, 63 Cal. 30; Gilson vs. Robinson, 68 Cal. 539, 543, 10 Pac. Rep. 193; Cerf vs. Reichert, 73 Cal. 360, 363, 15 Pac. Rep. 10; People ex rel. Lynch vs. Martz, 74 Cal. 110, 112, 15 Pac. Rep. 449; Baird vs. Board Supervisors, 74

Cal. 397, 398, 16 Pac. Rep. 205; Cucamonga F. L. Co. vs. Moir, 83 Cal. 101, 106, 22 Pac. Rep. 55, 23 Pac. Rep. 359; Heckmann vs. Sweet, 99 Cal. 303, 308, 33 Pac. Rep. 1099; People ex rel. Lynch vs. Harrison, 107 Cal. 541, 547, 40 Pac. Rep. 956; Klauber vs. Higgins, 117 Cal. 451, 464, 49 Pac. Rep. 466.

Stats. 1877-8, 914.—Rowell vs. Perkins, 56 Cal. 219, 225; Gilson vs. Robinson, 68 Cal. 539, 544, 10 Pac. Rep. 193.

LANDS—POSSESSORY ACTIONS.

Prescribing the mode of maintaining and defending possessory actions on public lands in this state.

(Stats. 1852, 158; Stats. Compiled Laws 1850-53, 896, ch. CLXXXII; amended 1859, 94, ch. XCIX, and 1861, 143, ch. CXLV.)

§ 1. Any person now occupying and settled upon, or who may hereafter occupy or settle upon any of the public lands in this state, for the purpose of cultivating or grazing the same, may commence and maintain any action for interference with, or injuries done to his or her possession of said land, against any person or persons so interfering with, or injuring such land or possession; provided, that if the lands so occupied and possessed, contain

mines of any of the precious metals, the possession or claim of the person or persons occupying the same for the purposes aforesaid, shall not preclude the working of such mines by any person or persons desiring so to do as fully and unreservedly as they might or could do had no possession or claim been made for grazing or agricultural purposes.

§ 2. Every such claim, to entitle the holder to maintain any action as aforesaid, shall not contain more than one hundred and sixty acres, and the same shall be marked by metes and bounds, so that the boundaries may be readily traced, and the extent of such claim easily known, and no person shall be entitled to maintain any such action for possession of or injury to any claim, unless he or she occupy the same, and shall have complied with the provisions of the third and fourth sections of this act.

§ 3. Any person being a citizen of the United States, claiming any of the public lands in this state, shall file in the office of the recorder of the county in which such lands are situated, his affidavit, setting forth,

First—That his or her lines do not embrace more than one hundred and sixty acres of land.

Second—That he or she holds no other claim under this act, and to the best of his or her knowledge and belief, that the said lands are not claimed under any existing title.

Upon the filing of this affidavit, the recorder shall proceed to record said claim, in a book to be kept in his office for that purpose. [Amendment, Stats. 1859, 94.]

§ 4. Within ninety days after the date of said record, the party recording is hereby required to improve the land thus recorded to the value of two hundred dollars, by putting such improvements thereon as shall partake of the realty, unless such improvements shall have been made prior to the application to record, according to section third, and unless the lands are in litigation under some pretended Mexican, or Spanish, grant, in which last-mentioned case, if the party can so describe the land claimed by him as to give the quarter section, or fractional section, township, and range, in accordance with the government lines, then he shall have ninety days after the rejection of said grant to make the required improvements. [Amendment, Stats. 1861, 143.]

§ 5. At any time after the provisions of the second, third, and fourth sections of this act shall have been complied with, the party so complying shall be permitted to absent himself or herself from such claim without being required to occupy the same for a period of not more than twelve months: provided, the person so wishing to absent himself or herself, shall first pay to the treasurer of the county in which said claim shall be situated, the sum of fifteen dollars, upon which payment the treasurer shall issue a receipt for the same: at any time within twelve months after the date thereof, such receipt shall be received as prima facie evidence of possession, in any court having jurisdiction in such cases, for the recovery of the possessory right to, or injury done to such claim. Any person absenting himself from said claim for a longer period than sixty days, without first paying the sum as provided in this section, shall forever forfeit his claim to the lands. One half of

the amount paid to any county treasurer under the provisions of this section, shall be paid by said treasurer into the general fund of said county, and the balance in the state treasury, whenever making his regular settlements with the state treasurer. The state treasurer shall set apart and retain all moneys received from such source, as a special fund, which may hereafter be appropriated by law, for the maintenance and protection of the insane.

§ 6. On the trial of any such causes, the possession or possessory right of the plaintiff shall be considered as extending to the boundaries embraced by the claim of such plaintiff, so as to enable him or her, according to section third, to have and maintain any action as aforesaid, without being compelled to prove an actual inclosure.

§ 7. All the right and benefits given to settlers on public lands by this act, shall extend to and be enjoyed by all persons who shall acquire any rights of possession, or title, by the provision of any act which has been, or may hereafter be passed, to secure a pre-emption right to the overflowed and swamp or school lands of this state.

§ 8. The provisions of this act shall not apply to any lands on which red-wood timber grows, south of thirty-eight degrees and thirty minutes. "An act describing the mode of maintaining and defending possessory actions on land belonging to the United States," passed April eleventh, one thousand eight hundred and fifty, is hereby repealed.

Not repealed by code.—That the foregoing statute was not repealed by the codes, see *Gray vs. Dixon*, 74 Cal. 508, 16 Pac. Rep. 305; *Taylor vs. Abbott*, 103 Cal. 421, 37 Pac. Rep. 403.

Earlier decisions under the statute are: *Hughes vs. Hazard*, 42 Cal. 149, 151; *Sweeney vs. Reilly*, 42 Cal. 402, 406; *Slaughter vs. Fowler*, 44 Cal. 195, 200.

LANDS—PUBLIC.

For the protection of pre-emption and homestead claimants.

(Stats. 1873-4, 543, ch. CCCLXXXI.)

§ 1. Every qualified pre-emption claimant under the pre-emption laws of the United States, residing on public lands of the United States within this state, who shall have filed his declaratory statement in accordance with said pre-emption laws, shall, from the time of such filing, be deemed to have title to and to be in possession of all the land described in such declaratory statement, as against trespassers and all persons having no superior right or title to the same, as long as he shall continue to reside thereon, and to comply in good faith with said pre-emption laws.

§ 2. Every qualified homestead claimant under the homestead laws of the United States, residing on public land of the United States within this state, who shall have made his original homestead entry in accordance with said laws, shall, from the date of such entry, be deemed to have title to and to be in possession of all the land described in such entry, as against trespassers and all persons having no superior right or title to the same, as long as he shall continue to reside thereon, and to comply in good faith with said homestead laws.

§ 3. Nothing in this act shall be construed to either restrict or enlarge the right of bona fide miners to mine for precious metals on the public domain,

or to change any general or special laws of this state concerning the grazing of animals on lands not fenced.

§ 4. This act shall take effect from and after its passage.

Whittaker vs. Pendola, 78 Cal. 296, 299, 20 Pac. Rep. 680; Kitts vs. Austin, 83 Cal. 167, 169, 23 Pac. Rep. 290; Wormouth vs. Gardner, 105 Cal. 149, 150, 38 Pac. Rep. 646.

LANDS, PUBLIC—SETTLERS.

For the better protection of settlers on public lands in this state, and to secure the rights of parties in certain cases.

(Stats. 1858, 345, ch. CCCLVIII.)

§ 1. Any party heretofore ousted, or who may be hereafter ousted, from the possession of any land, in an action at law, by any party claiming title thereto under any foreign grant, which grant shall be finally rejected, or shall be finally located, so as not to include such land, shall, and may, have his action in the proper court, against the party in whose favor the writ of restitution issued, and against the party in possession, to recover back the possession of any such land, with the rents, and profits thereof, from the time he was so ousted, till he shall be restored to the possession of the same, together with all costs and damages he may have sustained by reason of said action of ejectment, as provided in section two of this act.

§ 2. In any such action, if it shall appear that the plaintiff had been ousted by writ of restitution from such land in a former suit, wherein he had been defendant, that the party who sued out such writ claimed his title through a foreign grant, and that such grant had been finally rejected, or located so as not to include such land, such facts shall entitle the plaintiff to judgment in his favor, and a writ of restitution against the party in possession, with a several judgment, for all costs and damages sustained by such action of ejectment, against the party by whom he was originally ousted, and for all rents, and profits, against each of the defendants, for the time each had been in possession of such premises, after the service of the writ of restitution, and such party plaintiff shall not be stopped in his suit by reason of the former judgment against him.

A former act (Stats. 1856, 54, ch. XLVII) was held unconstitutional in several decisions.—See *Anderson vs. Fisk*, 36 Cal. 632, 633, and cases there cited.

The act here inserted, however, is limited

to a specific subject, and does not fall within the objections made to the act of 1856. And see other acts herein for protection of settlers.—Stats. 1873-4, 327; 1873-4, 543; 1887, 147, and next following statute.

LANDS, PUBLIC—SETTLERS.

For the better protection of settlers on the public lands of the United States, within the state of California, and for the protection and encouragement of persons desirous of settling thereon.

(Stats. 1887, 147, ch. CXXVIII.)

The above-entitled statute has been carried into the Penal Code by Stats. 1905, 675.—See *KERR'S CYC. PEN. CODE* § 420.

Forceful Entry and Detainer.—Statutes upon this subject were superseded by the Code of Civil Procedure.—*Hemstreet vs. Wassum*, 49 Cal. 9.

LANDS OF STATE—SWAMP.

For the protection of settlers on public lands claimed by the state.

(Stats. 1873-4, 327, ch. CCXXII.)

§ 1. From and after the passage of this act, no claim shall be made by the state to any land as swamp or overflowed, nor shall the same be segregated by authority of the state, for which pre-emption or homestead patents have been issued by the United States, or upon which there are settlers, occupying the land in good faith, who have filed their pre-emption or homestead declaratory statement; nor shall the register of the state land office receive any application for swamp or overflowed land, unless the application be accompanied by a certificate from the register of the United States land office for the district in which the land is situated, that there is no pre-emption or homestead filing upon the land sought to be purchased.

§ 2. This act shall take effect and be in force from and after its passage.

Consult **KERR'S CYC. POL. CODE** §§ 3441-3443; and *Fredericks vs. Zumwalt*, 134 Cal. 44, 46, 66 Pac. Rep. 38.

See tit. **Drainage — Swamp-Lands**, Stats. 1903, 354, ch. CCLVIII.

LANDS OF STATE—SWAMP.

To provide for the proper distribution, in the several county treasuries, of funds arising from the sale of swamp-lands.

(Stats. 1873-4, 770, ch. DXXXIII.)

§ 1. Whenever hereafter a swamp-land district shall be organized, and in all cases where districts have heretofore been organized, the board of supervisors of each county in which any portion of the lands of such district are located, shall, upon the application of any party interested, direct the auditor and treasurer to set apart from the swamp-land fund, in the county treasury, all the money which has been or shall hereafter be received in payment of principal and interest on such lands, as a fund to the credit of such district, except such money as may have previously been expended from the swamp-land fund for the benefit of land within the district.

§ 2. The money in the district fund, created by section one of this act, shall be paid out only for the purpose of reclaiming said land, or to the owners of such land after reclamation, as now provided by law; and in all cases where moneys paid in upon such lands have been diverted to the use and benefit of other lands, they shall be replaced out of the first receipt from the land so benefited. In all cases where any expense has been paid from the county swamp-land fund for attorney's fees in the examination of the character of any land, in any reclamation district, or when any expense has been paid from the county swamp-land fund pertaining to the land in said district, the county treasurer shall deduct said amount from the amount otherwise found due to the land for which said expense was paid, and only return to the owner of the land so much of the money paid into the treasury on said land as shall remain after deducting the said amount paid for expense pertaining to said land.

§ 3. This act shall not apply to districts upon which controller's warrants are outstanding, until after all of such warrants are paid.

County Kings vs. County Tulare, 119 Cal. 509, 513, 51 Pac. Rep. 866; *Carpenter vs. San Francisco Sav. Union*, 128 Cal. 516, 520, 61 Pac. Rep. 92.

LANDS—SWAMP AND OVERFLOWED.

To determine that lands in this state are swamp and overflowed when returned as such by the United States surveyor-general:

(Stats. 1891, 221, ch. CLVII.)

§ 1. Lands within this state which have been or may hereafter be returned by the United States surveyor-general as swamp and overflowed lands, and shown as such on approved township plats, shall, as soon as patents have been or may be issued therefor by this state, be held to be of the character so returned; provided, however, that nothing herein contained shall be construed to affect the rights of any homestead or pre-emption settler claiming under the laws of the United States, nor shall it affect any suit now pending in any court as between the parties thereto; provided, that nothing contained in this act shall be construed to prejudice the rights of any settler now or hereafter located upon said lands to perfect title to the same, if permitted under existing laws.

§ 2. This act shall take effect from and after its passage.

As to swamp-land and reclamation districts, see post tit. **Levee Districts** and note.

LANDS—SWAMP-LAND DISTRICT FUNDS.

Providing for the payment of all moneys in the state treasury to the credit of swamp-land district funds, to the treasuries of the counties wherein the said swamp-land districts are situated, and to provide for the control of the same by the auditor and treasurer of said counties; and prescribing the duties of the controller and treasurer in relation thereto.

(Stats. 1891, 243, ch. CLXIX.)

§ 1. Within three months after the passage of this act, the controller shall draw his warrant on the treasurer for the amount to the credit of each swamp-land district fund, as shown by his books, in favor of the county treasurer of the county wherein said swamp-land district is situated, and the state treasurer shall pay the same. And any moneys which may hereafter be due or payable from any of said swamp-land districts to the state treasury shall be paid into the treasury of the proper county, to the credit of the proper swamp-land district fund.

§ 2. Immediately after drawing his warrant in favor of the respective county treasurers, the controller shall notify the proper county auditor of the same, stating the amount of the order, and the auditor shall charge the same to the treasurer, and the money shall be subject, under those officers, to demands such as are now by law made upon the controller, and shall be paid by the county treasurer in like manner as the same are now paid by the state treasurer.

§ 3. In all cases wherein a swamp-land district comprises territory made up of portions of two or more counties, the controller may draw his warrant in favor of any one of said county treasurers, and the auditor of that county shall apportion said money to the several counties containing any of the lands of said swamp-land district, proportionate to the acreage of each county in said district, and shall notify the auditor and treasurer of the several counties interested, draw his warrant for the amount due each county, and the treasurer shall pay the same. And the auditor and treasurer of the proper counties shall credit

said moneys and dispose of them, [the same] as are now provided for moneys paid from the state treasury.

§ 4. This act shall take effect immediately.

County Kings vs. County Tulare, 119 Cal. 509, 514, 51 Pac. Rep. 866.

Swamp-lands.—There are numerous statutes in relation to swamp-lands and salt-marsh and tide lands of a local, though im-

portant, character. They are too numerous to permit of being embodied in this work.

The general subject is now embraced in the Political Code. See **KERR'S CYC. POL. CODE**, "Public Lands."

LANDS OF STATE—SCHOOL WARRANTS.

Providing for the presentation and cancelation of unlocated school-land warrants of the state of California, issued under the act of the state of California, approved May third, eighteen hundred and fifty-two, providing for the disposal of the five hundred thousand acres of land donated to the state of California by the government of the United States, and authorizing the controller of this state to draw his warrant on the state treasurer for the sum of two dollars per acre, in favor of any bona fide owner and holder of any such land warrant, for every acre represented by any such land warrant.

(Stats. 1893, 181, ch. CLI.)

§ 1. It is hereby enacted that each and every bona fide owner and holder of any unlocated school-land warrant or warrants of the state of California, issued under and by virtue of the act of the legislature of the state of California, approved May third, eighteen hundred and fifty-two, providing for the disposal of the five hundred thousand acres of land donated to the state of California by the government of the United States, shall be and is entitled to a warrant upon the state treasurer of this state for the sum of two dollars per acre for every acre of land provided for by any such school-land warrant; and the controller of the state, upon the presentation to him of any such warrant, is hereby authorized to draw his warrant on the state treasurer, payable out of the fund into which the purchase price of such school-land warrant was deposited, in favor of any such owner and holder of any such school-land warrant, for such sum as is herein provided for; provided, that before the receipt of said controller's warrant any such person presenting any such school-land warrant shall surrender to said controller his warrant for cancelation, and shall, at the same time file with the controller his or her written release of all claims and demands against the state of California, from any matter or thing growing out of or in any manner connected with any such land warrant so redeemed.

§ 2. The provisions of section six hundred and seventy-two of the Political Code of this state are hereby declared and made non-applicable to the provisions of this act.

§ 3. This act shall take effect immediately.

A similar statute and for the same purpose was enacted 1889, 434, ch. CCLXXXI.

LANDS OF STATE—UNCOVERED LAKES, ETC.

Regulating the sale of the lands uncovered by the recession or drainage of the waters of inland lakes, and unsegregated swamp and overflowed lands, and validating sales and surveys heretofore made.

(Stats. 1893, 341, ch. CCXXIX; amended 1899, 182, ch. CXLIX.)

§ 1. Any person desiring to purchase any of the lands uncovered by the recession or drainage of the waters of inland lakes, and inuring to the state by virtue of her sovereignty, or the swamp and overflowed lands not segregated by the United States, shall make an application therefor to the surveyor-general of the state, which application shall be accompanied by applicant's affidavit that he is a citizen of the United States, or has declared his intention to become such, a resident of this state, of lawful age, that he desires to purchase such lands (describing the same by legal subdivisions, or by metes and bounds if the legal subdivisions are unknown) under the provisions of this act; that he desires to purchase the same for his own use and benefit, and for the use and benefit of no other person or persons whomsoever, and that he has made no contract or agreement to sell the same, and that he does not own any state lands which, together with that now sought to be purchased, exceeds six hundred and forty acres.

§ 2. Upon the filing of said application, when the land has not been sectionized, the surveyor-general shall authorize the county surveyor of the county where the whole or the greater portion of the land lies to survey the same, who shall make an actual survey thereof, at the expense of the applicant, establishing four corners to each quarter section, and connecting the same with a United States survey; and he must, within thirty days, file with the surveyor-general a copy, under oath, of his field-notes and plat, and a statement, under oath, showing whether or not the land is occupied by any actual settler.

§ 3. If the surveyor thus authorized shall fail to make his return to the surveyor-general within the time specified in the preceding section, the surveyor-general may designate another person to make the said survey.

§ 4. No application to purchase land under this act shall be approved by the surveyor-general until the expiration of ninety days from the filing thereof in his office, and meanwhile the land shall be subject to the adverse claim of any actual settler who has resided thereon when the said application was filed.

§ 5. The lands designated in this act shall be sold and patented at the price of two dollars and fifty cents per acre and on the same terms and manner of payment as at present provided for swamp and overflowed lands. All moneys received for said lands shall be paid into the swamp-land fund of the county in which the lands are situated, and shall be treated and disposed of in the same manner as moneys arising from the sale of segregated swamp and overflow lands, and all moneys heretofore received for the sale of such lands, and remaining in the treasury, shall be subject to the same provisions of law. If any of the lands described in this act are suitable for cultivation without reclamation, such lands shall be sold only to actual settlers in tracts not exceeding one hundred and sixty acres. [Amendment, Stats. 1899, 182.]

§ 6. Any of the lands designated in this act which by reason of periodical overflow, need and are susceptible of reclamation may be reclaimed by the formation of districts in the same manner and subject to all of the provisions of law regulating the reclamation of swamp and overflowed lands; provided, that the board of supervisors of the county in which the lands, or the greater part thereof, are situated must first determine, upon proper petition presented therefor, by the holders of the title, or evidence of title, representing one half or more of any body of such land, that such reclamation is necessary and feasible.

§ 7. When land has been sold under this act, no contest shall be maintained against the purchaser on the ground that the land is not of the character stated in the application, unless it is shown that it is not of the character recited in section one of this act.

§ 8. All uncanceled certificates of purchase and patents heretofore issued and payments heretofore made for any lands as swamp and overflowed lands which lands belong to any of the classes described in section one of this act, whether or not such lands were segregated or sectionized, shall, for all purposes, be valid and shall have the same force and effect as if such lands had been at all times subject to sale as swamp and overflowed lands; provided, however, that any and all contests now existing between settlers and holders of certificates of purchase shall not be affected by the provisions of this act.

§ 9. All plats of any of the lands described in section one of this act which have been heretofore made under authority of the United States surveyor-general, and which plats designate the same as swamp and overflowed lands, shall be deemed valid and effectual as surveys of such lands from and after the date thereof.

§ 10. This act shall take effect from and after its passage.

Stats. 1893, 341.—*Sherman vs. Wrinkle*, Cal. 491, 492, 69 Pac. 148; *McCord vs. 121 Cal. 503, 505, 53 Pac. Rep. 1090, 54 Slavin, 143 Cal. 325, 326-328, 76 Pac. Rep. Pac. Rep. 270; Wrinkle vs. Wright, 136 1104.*

LANDS OF STATE.

To provide for the management and sale of the lands belonging to the state.

(Stats. 1867-8, 507, ch. CCCCXV; amended, 1869-70, 14, ch. XV; 1869-70, 814, ch. DXLVI; 1869-70, 875, ch. DLXXIII; 1871-2, 383, ch. CCLXXIX; 1871-2, 668, ch. CCCCLXIX; 1871-2, 685, ch. CCCCLVII; 1871-2, 858, ch. DLXXIX. And see supplementary statute, 1869-70, 878, ch. DLXXV, following this statute; and post *tits. Mining; Mineral Lands.*)

PART I.—GENERAL POWERS AND DUTIES OF OFFICERS.

§ 1. For the purpose of managing and selling any lands, the title of which is now or may hereafter be vested in the state by reason of any grant from the United States, or to which the state is or may be entitled by virtue of her sovereignty, an office shall be established at the seat of government, to be designated and known as the state land office of the state of California, the chief officer of which shall be known and designated by the title of register of the state land office, and his duties shall be such as may be prescribed by law.

§ 2. The surveyor-general of the state shall be ex officio register until otherwise provided by law; and the said surveyor-general and register shall have the power to appoint a deputy, who may, when necessary, perform all the duties pertaining to the two offices; but said deputy shall receive no compensation as such [deputy]; provided, that the surveyor-general shall have power to appoint any number of deputies necessary to perform all the field-work required by law, and shall have the right to exact bonds of such deputies.

§ 3. It shall be the duty of the said register to keep separate, distinct and complete account and records in relation to each class of lands to which the state is or may be entitled; which accounts and records shall show the number of

the survey or location, the date of the approval, the name of the locator, the description of the lands, by township, range, section, and subdivision of section; the price per acre at which the same are sold, the amount paid, the date of said payment, the number and date of the certificate of purchase, and the date of the patent when the same shall have been issued. He shall also keep the proper plats of the above-named lands, upon which all approved locations and surveys shall be designated by their numbers; and when certificates of purchase or patents shall have been issued, the same shall also be noted on the plats. But so long as the surveyor-general performs the duties of register, but one set of maps shall be required.

§ 4. Whenever the register shall receive from the county treasurer of the proper county a statement showing that any applicant for any state lands has made the first payment of principal and interest, as hereinafter provided, he shall issue to the person or persons entitled thereto a certificate of purchase, which shall show the class of land purchased, the number of acres, the price per acre, the date of payment, the date from which interest shall be computed, the amount paid, and the amount remaining unpaid; which certificate, and all certificates of purchase issued by authority of the board of regents of the University of the State of California, shall be received in any court of justice in this state as prima facie evidence of title. [Amendment, Stats. 1871-2, 685.]

§ 5. Whenever final payment shall have been made for any tract of land sold by authority of the state, the selection of which shall have been duly accepted and approved by the proper United States authorities, or when the tract so finally paid for or reclaimed as hereinafter provided, shall be swamp and overflowed, salt-marsh or tide lands, it shall be the duty of the register of the state land office, upon the surrender of the certificate of purchase by the person or persons entitled to the same, to prepare a patent for said land, and send the same to the governor, together with a certificate under his official seal, certifying that the laws in relation thereto have been fully complied with, that payment in full has been made to the state, and that the party named in the said prepared patent is entitled to the same; the patent shall then be signed by the governor, attested by the secretary of state, sealed with the great seal of the state and countersigned by the register of the state land office; provided, that no patent shall issue until after the expiration of one year from the date of approval of the survey or location by the surveyor-general, and the lands shall have been relinquished to the state by authority of the general land office at Washington; provided, further, that such relinquishment shall not be required for locations of the sixteenth and thirty-sixth sections in place, or for swamp and overflowed lands, shown to be such by the official surveys made by authority of the United States surveyor-general. The register of the state land office shall record all patents in books to be kept in his office for that purpose, and shall then forward or deliver the same to the owners of the land or their agents. [Amendment, Stats. 1869-70, 814.]

§ 6. The register of the state land office shall, on or before the first day of May of each year, prepare and forward to the district attorney of each county a statement embracing all the lands in the county upon which payments have not been made according to law. Said statement shall show the name of the purchaser, the number and date of the survey or location and of the certificate

of purchase, the amount paid, the amount unpaid and the amount then due; provided, that no lands within any reclamation district shall be embraced in said statement after the receipt by the register of the certificate of the board of supervisors, as provided in section forty of this act, that works of reclamation have been commenced.

§ 7. The register of the state land office shall have a seal of office, which he shall affix to all certificates issued by him; and any copy or extract of any document, paper or record belonging to his office, duly authenticated by him under his hand and seal, shall be received in evidence in all the courts of justice in this state, in place of, and have the same force and effect, as the originals if produced.

§ 8. The register of the state land office shall receive a salary of two thousand dollars per annum, payable the same as other state officers are paid, and he shall be entitled to demand and receive the following fees: For each certificate of purchase, duplicate or patent, three dollars; for certifying a contested case to district court, ten dollars; for copies of papers in his office, fifteen cents per folio and fifty cents for the certificate with the seal attached, and such other fees as may be allowed by law. All fees received by the register shall be disposed of as provided in section fifty-five of this act. [Amendment, Stats. 1869-70, 875.]

§ 9. The said register shall have the right to employ two clerks at an aggregate salary of three hundred dollars per month, to be paid in like manner as other clerks in state departments.

§ 10. It shall be the duty of the surveyor-general to examine all surveys made under the provisions of this act, and, if found correct, approve and return the same without delay to the county surveyor making the same.

§ 11. The said surveyor-general shall be and is hereby constituted the agent of the state for the location in the several United States land offices of the unsold portion of the five hundred thousand acres of land granted to the state for school purposes, the unsold portion of the seventy-two sections granted to the state for a seminary of learning, the unsold portion of the ten sections granted to the state for the erection of public buildings, the sixteenth and thirty-sixth sections granted for the use of public schools, and lands in lieu thereof, together with the grant of one hundred and fifty thousand acres for the benefit of an agricultural college, in such manner as shall be hereinafter provided.

§ 12. It shall be the duty of the surveyor-general, whenever application shall be made to him as hereinafter provided, for any portion of the lands described in the preceding section, to communicate immediately with the proper United States land office, and ask that the lands described in the application shall be accepted in part satisfaction of the grant under which it is sought to be located; and when the acceptance of the register of the United States land office shall have been obtained, he shall give to the party applying, a certificate, which shall authorize the county treasurer of the county in which the lands are situated, to receive payment thereon; provided, that in cases where the townships have not been subdivided, but township and other lines have been established so as to clearly show that a tract of land is included in any thirty-sixth section, and the parties applying for the same make affidavit that there is no legal claim to the same other than his or their own, and that the same is not occupied by any bona

fide settler, the surveyor-general may approve such locations, without the acceptance of the register of the United States land office, and the register of the state land office may issue certificate of purchase for the same; provided, the state shall in no manner be held responsible for damages, should the title prove defective, and that no patent shall be issued by the state until the location shall have been approved by the United States. [Amendment, Stats. 1869-70, 875.]

§ 13. The surveyor-general shall, as soon as practicable after the survey of any township by the United States surveyor-general, procure of the proper United States land office a statement of the condition of the sixteenth and thirty-sixth sections—whether the same or any portion thereof is covered by pre-emption, private grant or other encumbrance, so that it cannot be located by the state, or whether they are free from any claim other than that of the state.

§ 14. The several registers and receivers of the United States land offices shall present their accounts for services rendered the state in the matter of locations to the surveyor-general, who, if he shall find the same correct according to fees allowed registers and receivers by act of Congress or by the department of the interior, shall certify the same to the state board of examiners, who shall audit and allow said accounts the same as other state indebtedness payable out of the general fund of the state. [Amendment, 1869-70, 14.]

§ 15. It shall be the duty of the state surveyor-general to represent the state in all cases of conflict of title between the state and the United States; and when he shall desire to take testimony under the provisions of the act of Congress to quiet titles in California, passed July, eighteen hundred and sixty-six, he shall request the said United States surveyor-general to set a time and place for hearing the same, and shall request that he shall name a place for said hearing, convenient of access to the witnesses in the case. If the United States surveyor-general shall name any place other than his office, it shall be lawful for him to charge the state with all his necessary traveling expenses in going from his office to the place [where] said testimony shall be taken and back to his office; and all accounts for such expenses shall be approved by the state surveyor-general and paid like other state indebtedness; provided, that no more than one thousand dollars shall be allowed for any one year. In any case of conflict between the United States and the state or any purchaser under the state, when the surveyor-general of the state shall deem it necessary, he shall request the attorney-general to attend the trial on the part of the state; and it shall be the duty of the attorney-general to so attend if not prevented by other official duties; and the actual traveling expenses of the said state surveyor-general and the attorney-general shall be audited by the board of examiners, and paid out of the general fund; provided, the whole amount so paid shall not exceed five hundred dollars during any one year.

§ 16. The surveyor-general and the register are each hereby authorized and required to issue all necessary instructions and to prepare and order printed all the blank forms necessary for the proper and complete operation of this act.

§ 17. In all cases where a contest shall arise concerning the approval of a survey or location before the surveyor-general, or concerning a certificate of purchase or other evidence of title before the register, the officer before whom the contest is made may, when the question involved shall be as to the survey,

or one purely of fact, or whether the land applied for is a part of the swamp or on overflowed lands of the state, or whether the same is included in any established and confirmed grant, the lines of which have been run by due authority of law, proceed to hear and determine the same; but when, in the judgment of the officer before whom the contest shall arise, a question of law is involved, or when either party shall demand a trial in the courts of the state, he shall make an order referring said contest to the district court of the county in which the land involved in the contest is situated, and shall enter said order in the proper record book of his office; provided, that the party protesting against the approval of a survey or location, or the issuance of a certificate of purchase or other evidence of title, shall in all cases make a sufficient ex parte showing to warrant, in the judgment of the surveyor-general or register, further proceedings in the matter, and shall prosecute his contest to judgment within six months from the date of the protest, unless for cause satisfactory to the surveyor-general, the register or the court. Either party may bring an action in the district court of the county in which the land in question is situated, to determine such conflict, and the proffer of a certified copy of the entry, made by either the surveyor-general or the register, shall give said district court full and complete jurisdiction to hear and determine said conflict; and upon the filing with the surveyor-general or register, as the case may be, of a copy of the final judgment of said court, that officer shall give his approval of the survey or location, or issue the certificate of purchase or other evidence of title, in accordance with said final judgment.

§ 18. It shall be the duty of the county surveyor, immediately upon receiving an application for any survey required by this act, to indorse the date of the receipt thereon, and note the same in a book to be furnished by the surveyor-general and kept in his office for that purpose, in the regular order in which it is received, giving the name and address of the applicant, and the description of the land by township, range, section and subdivision of section, which book shall always be open for public inspection. He shall, within thirty days after receiving such application, if the lands are subject to sale, complete the survey, plat and field-notes, which shall be recorded by him in a book kept in his office for that purpose; and duplicate copies thereof, together with a copy of the application, shall be forwarded to the surveyor-general for approval. The said county surveyor shall, immediately upon the receipt of an approved survey, record said approval; he shall mark all approved surveys upon the maps of his office, and all his said books and maps shall at all times be open to public inspection.

§ 19. All surveys made under the provisions of this act shall be according to the instructions of the surveyor-general, and shall be made according to the rectangular system adopted by the United States in the survey of the public lands, and shall conform, as near as practicable, to the lines of the public surveys; provided, that in salt-marsh or tide-land surveys the surveyor-general may order a departure from said system.

§ 20. Whenever any county surveyor shall neglect or refuse to make any survey of state lands as provided in this act, or in case of a vacancy in the office of county surveyor, the surveyor-general may, when requested by an applicant for the purchase of lands, appoint some competent person to make said survey, and when approved, shall be as valid as if made by the county surveyor.

§ 21. The surveyor-general shall have power to employ two clerks at an aggregate salary not to exceed three hundred dollars per month to be paid as other clerks in state departments.

§ 22. The surveyor-general, the register and county surveyor, shall each have power to administer the oaths or affirmations required in matters pertaining to their respective offices.

§ 23. Whenever any survey or location of any state lands shall have been made or approved by the surveyor-general, the purchaser shall, within fifty days from the date of said approval or location, present his copy of the same to the county treasurer, who shall thereupon receive the amount, whether in full or in part, so provided by law, and the fee for the certificate of purchase, indorsing his receipt therefor upon the back of the said certificate of location or survey, which shall then be returned to the purchaser; and in case said payment is not made within said fifty days, the land described in said survey or location shall revert to the state without suit, and said survey or location shall be and become null and void. All subsequent payments, whether of the balance of the principal or of the interest thereon, shall be paid to the county treasurer in like manner, who shall indorse the same upon the back of the certificate of purchase. The treasurer shall also direct the purchaser to take said certificate of location, or purchase, or survey so indorsed, to the auditor, who shall charge the amount named therein to the account of the treasurer, and make his check upon the indorsed receipt so charged. [Amendment, Stats. 1869-70, 875.]

§ 24. Upon the first day of every month (except the same shall fall on Sunday or other holiday, then on the day following) the county treasurer shall make a report to the register of the state land office of all moneys received for land during the preceding month, which shall show the number of the location or survey, the name of the purchaser and the amount paid since the date of his last report, whether as principal or interest, which amounts shall be entered in the columns belonging to the particular class of land upon which each payment has been made. The payment of the fee for the certificate of purchase shall also be entered in the proper column, and the treasurer shall then send the report to the auditor, who shall compare the items with the account of the treasurer; and if the same shall be found to agree with his entries he shall countersign the report as correct and return it to the treasurer. These reports shall be forwarded to the register on or before the fifth day after they have been made up, and upon receipt thereof the register shall enter the payment so reported to the credit of the purchasers by whom they have been made, in the books of his office. He shall further, as soon as possible thereafter, notify the county treasurer of the receipt of his report, and of any error that may have been found therein—in that case returning the report for correction.

§ 25. At the end of the quarter it shall be the duty of the county treasurer to make a report to the controller of state, showing the amount which has been received during the quarter, either as principal or interest, upon each class of land; which report shall be referred to the register of the state land office for examination and comparison with the books of his office. When the register shall have certified to the correctness of the report it shall be returned to the controller, who shall thereupon make his settlement with the county treasurer; and the said

county treasurer shall then pay over to the treasurer of state all moneys, controller's warrants, or other indebtedness of the state that he may have received in payment for said lands; provided, that the county treasurer shall retain in his own hands all moneys arising from the sale of swamp and overflowed lands, and shall place the same to the credit of a fund to be known as the "Swamp-Land Fund" of the county; and the same shall be subject to the order of the board of supervisors, except as may be hereinafter provided.

§ 26. The treasurer shall compute interest on all lands from the date of the approval of the survey, or the date of the certificate of location, to the first of January following such date; or if for lands already purchased, then up to the first of January following the day upon which the interest falls due; after which time all payments of principal or interest shall fall due on the first day of January.

§ 27. The county treasurer shall be entitled to receive and retain one per centum of all moneys paid in to him for lands, or for taxes on land under the provisions of this act; and the auditor shall be entitled to one per centum, of all amounts certified to by him as provided in section twenty-four of this act, which he shall receive from the treasurer, and his receipt therefor shall be a sufficient voucher for the controller of state in his settlement with said treasurer; provided, that when the auditor or treasurer shall receive a salary as auditor or treasurer, the said percentage shall be paid into the county treasury the same as other revenue for county general purposes.

PART II.—SWAMP AND OVERFLOWED, SALT-MARSH AND TIDE LANDS.

§ 28. The swamp and overflowed, salt-marsh and tide lands belonging to the state shall be sold at the rate of one dollar per acre in gold coin, payable, twenty per centum of the principal within fifty days from the date of the approval of the survey by the surveyor-general; the remainder of the principal shall be due and payable one year after the passage of any act of the legislature requiring such payment, or before, if desired by the purchasers; provided, that legal interest thereon be paid annually, in advance, from the date of such approval; provided, the bonds or warrants of districts having an outstanding indebtedness shall be received in payment for lands in such district at par.

§ 29. Whenever any resident of this state desires to purchase any portion of the swamp and overflowed lands granted to the state by act of Congress of September twenty-eighth, eighteen hundred and fifty, or any portion of the tide lands belonging to the state above low tide, he shall make affidavit, before any person competent to administer oaths, that he is a citizen of the United States, or has filed his intention of becoming a citizen; is a resident of the state, and of lawful age; that he desires to purchase said lands (describing them) under the laws of the state providing for the sale of the swamp and overflowed and tide lands of the state, and that he does not know of any legal or equitable claim to said land other than his own; and also, if the applicant be a female, that she is entitled to purchase and hold real estate in her own name under the laws of this state, which application and affidavit, shall be filed in the office of the surveyor of the county in which such lands, or the greater portion thereof, are situate. The county surveyor shall, except when surveys have already been made, then make

a survey of said lands, as provided in section eighteen of this act; provided, that applicants for salt-marsh or tide lands which shall be less than twenty chains in width, applying within ninety days after this act goes into effect, shall, in addition to the above, set forth in said affidavit that he or she is the owner or occupant of the uplands lying immediately back of and adjoining said lands sought to be purchased; provided, that the owner or occupant of any such upland shall not be a preferred purchaser for more than one fourth of a mile front on any bay or navigable stream; and any such application by such owner or occupant made within said ninety days shall be only for one fourth of a mile frontage as aforesaid.

§ 30. Whenever the holders of certificates of purchase, patents or other evidence of title representing one half or more of any body of swamp and overflowed, salt-marsh or tide lands, susceptible of one mode of reclamation, desire to reclaim the same, they shall present to the board of supervisors of the county in which the said lands or the greater portion thereof are situated, at a regular meeting of said board, a petition setting forth that they desire to adopt measures to reclaim the same, the description of the lands they propose to reclaim, by township, range, section, and subdivision of section; the quantity sold and the quantity remaining unsold, the number of acres in the whole district and the number of acres in each tract sold, with the name (if known) of the owner thereof. The petition shall be sworn to by at least one of said petitioners, and shall be published for four weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands, or the greater portion thereof, are situated; or, if there be no newspaper published in the county, then it shall be published in some newspaper having a general circulation in said county, and the usual affidavit of publication shall be filed with said petition; provided, that where a district shall be in more than one county, the trustees shall after the petition shall have been granted, forward a copy thereof to the clerk of the board of supervisors of each of the counties in which any portion of said lands may lie, and the said board of supervisors to which the same shall be forwarded shall allow no other district to be formed within said first district, unless by consent of the trustees thereof.

§ 31. If the board of supervisors shall find, upon the hearing of said petition, that the statements therein set forth are correct, and that no land is improperly included or excepted from the said district, they shall note their approval on the petition, which approval shall be signed by the president of the board and attested by the clerk. The petition shall then be recorded by the county recorder in a book to be kept for the purpose of recording papers relating to the reclamations, and a certified copy thereof forwarded to the register of the state land office. The register shall thereupon forward to the county treasurer a statement showing the names of all owners of land in the district who have paid in full for their lands, and the amount deducted therefrom on account of moneys drawn from the state or county general swamp-land fund.

§ 32. After the hearing and approval of the said petition by the board of supervisors, or previously, if they shall so elect, the said petitioners shall ordain and establish such by-laws as they shall deem necessary to effect the work of reclamation and keep the same in repair, and shall elect or appoint three of their number by the votes or signatures of the holders of certificates of purchase or

patents representing at least one half the land sought to be reclaimed, to act as a board of trustees to manage the same. The by-laws thus adopted shall be signed by the holders of certificates of purchase or patents representing at least one half of the land so to be reclaimed or benefited, and shall be recorded by the county recorder in the same book and immediately following the petition. The board of trustees thus formed shall have power to elect one of their number to act as president thereof, and to employ engineers and others to survey, plat, locate and estimate the cost of the work necessary for reclamation, and the land needed for right of way, including drains, canals, sluices, water-gates, embankments and material for construction; and to construct, maintain and keep in repair all works necessary for the object in view. After any district now formed shall organize under the provisions of this act, the supervisors of the county shall turn over to the trustees all the books and papers in their possession relating solely to that district; provided, that until such organization, said districts now formed shall proceed under the laws now in force.

§ 33. The board of trustees shall report to the board of supervisors of the county, or, if the district shall be in more than one county, then to the board of supervisors in each county in which the district may be situated, the plans of the work and estimates of the cost, together with estimates of the incidental expenses of superintendence, repairs, etc.; and said board of supervisors to whom the report shall be made shall appoint three commissioners, who shall jointly view and assess upon each and every acre to be reclaimed or benefited thereby a tax proportionate to the whole expense and to the benefits which will result from such works, which said tax shall be collected and paid into the county treasury or treasuries (as the case may be) in the manner hereinafter provided, and shall be placed by the treasurer to the credit of the district, and shall be paid out for the work of reclamation upon the order of the trustees when approved by the board of supervisors of the county; provided, that if a district shall be in more than one county the tax upon all lands shall be paid into the treasury of the county in which the particular tract may be situated.

§ 34. In case the original assessment be insufficient to provide for the complete reclamation of the lands of the district, or in case further assessments be required from time to time to provide for the protection, maintenance, and repair of the works of reclamation, the trustees shall present to the board of supervisors of the county by whom the formation of the said district was approved, a statement of the work done or to be done, and its estimated cost; and said board shall make an order directing the commissioners who made the original assessment, or other commissioners to be named in such order, to assess the amount of such estimated costs upon the lands of the said district; and the said assessment shall be levied, paid, and if delinquent collected in the same manner as provided in sections thirty-three and thirty-five of this act. [Amendment, Stats. 1871-2. 668.]

§ 35. The commissioners appointed by the board of supervisors, as herein-before provided, shall make a list of the amount due from each owner of land in the district and of the amount assessed against the unsold land, and shall file the same with the county treasurer; or, if the district shall be in more than one county, then lists shall be filed with the treasurer of each county for the lands in that county. The treasurer shall thereupon credit each purchaser who has

paid in full for his land with eighty cents per acre, less the amount deducted by the register of the state land office, as provided in section thirty-one of this act. The lists thus prepared shall remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees, and during the time it shall so remain in the office of the treasurer any person assessed can pay the amount so assessed against him to said treasurer without cost; but if at the end of said thirty days, or of said longer time fixed by the trustees, if all of said tax has not been paid the treasurer shall return said list to the district attorney, who shall proceed at once against all delinquents in the same manner as is provided by law for the collection of state and county taxes, and all costs shall be collected of said delinquents.

§ 36. The work necessary for reclamation may be executed by contract or by days work, or by both modes, as may be adjudged by the board of trustees most conducive to economy, security and perfection in the work to be done; but the said board shall keep accurate accounts of all expenditures, which, with any and all contracts that may be made by them, shall be open to the inspection of any person interested in the district, or their agents and attorneys, and to the board of supervisors.

§ 37. The purchaser of any tract of land which may be unsold in any reclamation district at the date of the recording of the by-laws, as hereinbefore provided, shall take the same, subject to all the provisions of said by-laws, and the assessments levied in pursuance thereof, and shall have all the rights and privileges enjoyed by the original signers of said by-laws; provided, that he or she shall pay into the county treasury twenty per centum of the principal, one year's interest on the remaining eighty per centum, and any assessment due upon the land so purchased, for the cost and expense of reclamation, with interest thereon until paid, from the date such assessment became due. But if such land shall remain unsold for four years after the filing of said by-laws, it shall be exempt from any assessment levied under the same during that time.

§ 38. The trustees of any reclamation district in which the by-laws shall have been recorded, as provided in section thirty-one, shall have power to acquire right of way for canals, drains, embankments and other work necessary to the reclamation, and shall have power to take materials for the construction, maintenance and repair thereof from lands outside of as well as within the limits of the district; and if the said trustees shall fail to procure the consent of the owner or owners of the lands or material needed, the said board of trustees, or the president acting in their behalf, shall file in the office of the clerk of the county court of the county in which the lands or material requisite are situated, a petition, in which shall be stated the number of the district to be reclaimed, a description of the land[s] or material required for its reclamation, the names of the owners of the lands or material required, and that the said trustees have endeavored to obtain the consent of the owners thereof for the use or possession of the same, but have failed to obtain such consent; whereupon the said court, or the judge thereof, shall set a time for the hearing of the same. The mode of proceeding shall then be the same as that prescribed in sections twenty-five to thirty-eight, inclusive, of an act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto, passed May twentieth, eighteen hundred and sixty-one, as amended April twenty-seventh, eighteen hundred and

sixty-three, for condemning lands for railroad purposes; and wherever the railroad company is referred to in said sections it shall be construed to refer to the said swamp-land district; and upon the filing of said petition the said trustees may enter upon and take possession of, and make use of the property so applied for; provided, they serve upon the owners thereof a copy of said petition; and provided, further, that they shall be held responsible for all damages that may at any time be awarded for such possession and use.

§ 39. Whenever any district of swamp and overflowed, salt-marsh or tide lands, susceptible of one mode of reclamation, shall be entirely owned by parties who desire to reclaim the same and who desire to manage the reclamation without the intervention of trustees or the establishment of by-laws, said owner or owners shall file the petition as provided in section thirty of this act; and in addition thereto shall state that he, she or they intend to undertake the said reclamation on his or her or their own responsibility. If the said petition shall be granted, the said owner or owners of said lands shall have all the rights, immunities and privileges granted by this act; and in all proceedings the name or names of the said owner or owners shall be used instead of the names of the trustees.

§ 40. Whenever the supervisors of any county in which any reclamation district shall have been formed or organized under the provisions of this act shall certify to the register of the state land office that works of reclamation have been commenced and are in progress upon a plan and in conformity with the requirements hereinbefore provided, the payment of interest by purchasers in said districts shall be suspended; but if the said works are not completed and accepted as hereinafter provided, within four years from the date of the filing of said petition required by section thirty, then interest for the whole time shall be charged and collected by the said register, the same as if there had been no such suspension.

§ 41. After the work of reclamation, as contemplated in this act, shall have been completed, the trustees, or the owners of the land, if there have been no trustees for the district, shall file in the office of the county recorder of the county in which the original petition was filed, a sworn statement that said work has been completed; and the recorder shall forward a certified copy thereof to the register of the state land office. When said statements shall have been filed, the supervisors shall order the treasurer to pay over to the trustees any moneys he may have credited to purchasers on full payments, as provided in section thirty-five of this act.

§ 42. Whenever the trustees, or owners of the land if there be no trustees, shall certify under oath to the board of supervisors by whom the district was formed that the works of reclamation have been completed, or that two dollars per acre in gold coin has been expended on the work of reclamation, if such facts be established to the satisfaction of said board, they shall transmit to the register of the state land office a certificate stating such facts, and he shall thereupon credit each purchaser of lands within the district with payment in full for such lands, and the said purchaser or his assigns shall be entitled to a patent therefor. And the register shall forward to the treasurer of the county or counties in which the district is situated a statement showing the amount of money, including interest, paid into the treasury by each purchaser of land in said district prior to or after

the formation of the same, after deducting therefrom the proper proportion chargeable to each purchaser of the amount previously drawn from the swamp-land, state, or county general fund, and the amount to be credited to the purchasers and paid over to the trustees as hereinbefore provided, and shall order the balance paid over to said purchasers or their assigns, and the said statement of the register, signed by each purchaser or his assigns, shall be the voucher for the county treasurer; provided, that the provisions of this section shall not apply to districts having an outstanding indebtedness represented by controller's warrants drawn upon the state treasury, until all such warrants are fully paid. [Amendment, Stats. 1871-2, 383.]

§ 43. Swamp and overflowed, salt-marsh or tide land districts now formed may proceed at once to organize under the provisions of this act, and it shall be the duty of the clerk of the board of supervisors of any county in which the greater portion of any swamp-land district shall be, immediately after this act goes into operation, to call a meeting of the landowners of such district by publishing a notice for four weeks in some newspaper published in the county, or if there shall be no paper published in the county, then by posting at least three notices in the district, for the election of trustees and the establishment of by-laws; and the holders of certificates of purchase or patents, or their agents, representing one half the land sold, shall form a quorum for the transaction of business at such meeting; and the trustees elected at said meeting shall have power, and it shall be their duty, to carry out and complete all unfinished business commenced by the board of supervisors, and do all other things authorized by the by-laws of the district or by this act; provided, that in any district now in debt the trustees shall have power to do nothing to impair or destroy any debt or obligation of the district without the consent of creditors. The trustees of any such district, however, shall have the power to make any arrangements with the said creditors for the surrender of any indebtedness at less than par, and to levy any tax on the district for that purpose, provided the same shall be authorized by the by-laws of the district.

§ 44. If any district now in debt shall levy a tax upon the lands of the district, as provided in the preceding section, and shall redeem bonds or warrants of the district with the proceeds thereof, the trustees of said district shall have power to select any unsold lands in the district and pay for the same with said bonds or warrants at par, and the register of the state land office shall issue to the said trustees a certificate of purchase (and when all the conditions of this act shall have been complied with, a patent) for the same; and the said trustees shall have power to deed the said lands in fee to any person upon the payment by the said person, into the fund of the district, of the price agreed upon.

§ 45. If the holders of certificates of purchase or patents for lands within any district formed under previous laws, and in which the lands have not been thoroughly reclaimed, desire to have their lands set off from said district, they shall, in addition to the petition required in section thirty of this act, show to the board of supervisors that their lands are capable of an independent reclamation. If the district from which they seek to be set off shall not be in debt, then said lands may at once be set off, but if the district shall have an outstanding indebtedness, then the board shall, either in their own proper persons or by commissioners appointed for that purpose, determine what proportion of the debt the tract so

sought to be set off shall be entitled to pay, and upon the payment by the said petitioners of the amount so awarded the said lands described in said petition shall be constituted a district and shall be subject to all the conditions and restrictions of this act. And the amount so paid by the petitioners shall be a charge against the district so formed, and shall be collected and paid the same as funds for reclamation. Any reclamation district may, with the concurrence in writing of a majority in acreage of the holders of certificates of purchase, patents, or other evidence of title to and within the said district, consolidate with one or more contiguous districts; the term of such consolidation, and the names of the trustees of the consolidated district, shall be stated in a written agreement, and the number be designated therein by which the consolidated district shall be known, which shall be one of the original numbers, and shall be signed by the trustees of each district, or a majority of them, and be filed in the office of the recorder of the county or either of the counties in which the districts are situated, and the trustees of the said district, or a majority of them, shall thereupon certify to the register of the state land office the fact of such consolidation, the original numbers of the districts consolidated, and the number adopted for the consolidated district. [Amendment, Stats. 1871-2, 858.]

§ 46. All districts organized under the provisions of this act shall have a state number, and the register of the state land office, upon the receipt of a copy of a petition, as hereinbefore provided, shall number the same, and shall send their number to the county recorder of the county from which the copy came; and the said recorder shall immediately number the petition upon record in like manner, and the said district shall thereafter be known and designated by said number; provided, that districts now organized shall be known by the number they now have. No member of any board of supervisors, or any clerk of said board, shall receive any compensation other than their regular salary for services performed under this act; provided, that the board of supervisors of Sacramento County may, if they shall deem the same advisable, employ a clerk to attend to matters pertaining to swamp-lands, and shall pay such clerk by orders on the swamp-land fund of the district for which work is performed not to exceed five dollars for each day actually engaged.

§ 47. On or before the first day of June, of the present year, the register of the state land office shall prepare a statement of the amount of moneys paid into the general swamp-land fund of the state by purchasers of swamp and overflowed, salt-marsh or tide lands in each county of the state; and after deducting therefrom the amount expended out of the general swamp-land fund exclusive of district reclamation, show the amount remaining in the said general fund to the credit of each county, and shall file the same in the office of the controller of state. The controller shall thereupon draw his warrant on said general swamp-land fund in favor of the county treasurer of each of said counties for the amount with which his said county may be credited. Any county treasurer may draw said money from the state treasury upon said warrant, and transfer it immediately to the county treasury, or he may use said warrant in his settlement with the state treasurer. In case any of said warrants shall be used in a settlement by a county treasurer, the state treasurer shall transfer the amount of the warrant from the swamp-land fund to the general fund. Immediately after notification by the board of supervisors that all contractors are fully paid for work

contracted prior to the passage of this act, the controller of state shall certify to the board of supervisors of each county in which a swamp-land district may be situated, the amount of the assets unexpended standing on the books of the controller, and belonging to such district, specifying particularly the nature of such assets, whether of coin or otherwise, and upon receiving said certificate, the auditor and treasurer of the county, under the direction of the board of supervisors, shall place said assets on their books to the credit of the proper swamp-land district fund. The controller shall also forward to the proper board of supervisors all books relating to swamp-land districts received by him from the board of swamp-land commissioners.

§ 48. The balance of the principal on all lands in districts having an outstanding indebtedness, which have been sold for five years, shall be due and payable one year after this act goes into effect, and on all lands in such districts which have been sold less than five years, the said balance shall be due and payable on the first of January following the expiration of five years from the date of said sale; provided further, that no action of the landholders shall have the effect to stay the payment upon any lands provided for by this section.

§ 49. If any person shall at any time or in any manner lower or alter any levee to facilitate crossing, or shall cut, destroy or in any manner whatever injure or destroy any levee, or tide-gate, or embankment or other work constructed for the purpose of reclamation, or in any manner whatever diminish the height, width or strength of any levee or embankment of a district, or cross levee within a district, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than ten days nor more than six months, or by both such fine and imprisonment; and in every case of conviction the sum of fifteen dollars shall be charged as costs, and be paid to the district attorney for his own use; and all fines collected under this act shall be paid into the levee fund of the district.

§ 50. Any person owning or occupying lands upon the banks of any river, creek or other stream where the lands lying back of said stream are lower than the bank thereof, shall be held responsible for all damages which may be sustained by the owners or occupants of said lower lands by reason of any cut or embrasure made in the bank of said stream by the said owner or occupant of said bank. Said damages may be proven and recovered in any court of competent jurisdiction according to the civil practice of said court; provided, that in case said cuts were made for the purpose of irrigation, and head-gates and culverts have been made which competent persons have considered sufficient to restrain the water, and where great diligence has been made to prevent damage, the said facts may be plead[ed] and proven in mitigation of damages, and shall be taken into consideration by the court or the jury in determining the same.

PART III.—SCHOOL LANDS.

§ 51. The unsold portion of the five hundred thousand acres granted to the state for school purposes, the unsold portion of the seventy-two sections granted to the state for a seminary of learning, the unsold portion of the ten sections granted to the state for the erection of public buildings, the sixteenth and thirty-sixth sections granted for school purposes, and lands selected in lieu thereof,

shall be sold at the rate of one dollar and twenty-five cents per acre, in gold coin, payable twenty per centum of the principal within fifty days from the date of the certificate of location issued to the purchaser by the surveyor-general; the balance, bearing interest at the rate of ten per centum per annum, in advance, shall be due and payable within one year after the passage of any act of the legislature requiring such payment, or before, if desired by the purchaser.

§ 52. Whenever any resident of the state desires to purchase any portion, not less than the smallest legal subdivision of a sixteenth or thirty-sixth section of any township in the state, which has been surveyed by authority of the United States, he or she shall make an affidavit, before any officer authorized to administer oaths, that he or she is a citizen of the United States (or, if a foreigner, that he has filed his intention of becoming a citizen) a resident of the state, of lawful age; that he or she desires to purchase said lands (giving a description thereof by legal subdivision) under the provisions of this act; that he or she has not entered any portion of any sixteenth or thirty-sixth section which, together with that now sought to be purchased, shall exceed three hundred and twenty acres; that there is no occupation of said lands adverse to any that he or she may have; or, if there shall be adverse occupation, then he or she shall state that the township has been sectionized and subject to pre-emption three months or over; and that said adverse occupant (giving his or her name) has been in such occupation for more than sixty days; and if the applicant be a female, she shall state that she is entitled to purchase and hold real estate in her own name under the laws of the state; which application shall be forwarded to the surveyor-general of the state.

§ 53. Every occupant of a sixteenth or thirty-sixth section shall be protected in his or her occupancy for six months after the passage of this act; and after the expiration of that time, any person settling upon a sixteenth or thirty-sixth section shall have sixty days after such settlement in which to file the application required in the preceding section. All applications filed in the surveyor-general's office prior to the expiration of said six months, shall be retained until the end of that time before approval; and after the expiration of said six months, all applications shall be retained in said office for sixty days before approval. If two or more shall claim the same land, the contest shall be determined as provided in section seventeen of this act, but no person shall have a right to purchase by reason of any settlement or improvement, unless application shall have been made within the time above prescribed. Whenever any resident of the state desires to purchase any of the other lands mentioned in section fifty-one of this act, except the sixteenth and thirty-sixth sections, he or she shall make an affidavit before any officer authorized to administer oaths, that he or she is a citizen of the United States (or, if a foreigner, then that he has filed his intention of becoming a citizen), a resident of the [state, of lawful age; that he or she desires to purchase said lands (giving a description by legal subdivisions) under the provisions of this act, and that there is no valid claim to said land other than that of the applicant; that he or she has not entered any land in part satisfaction of the grant in lieu of sixteenth and thirty-sixth sections which together with that now sought to be purchased shall exceed three hundred and twenty acres; and that if the applicant be a female, then that she is entitled to

purchase and hold real estate in her own name under the laws of the state; which application] shall be forwarded to the surveyor-general. [Amendment, Stats. 1869-70, 875.]

[The words in italics in brackets in engrossed bill, but not appearing in the approved bill.]

§ 54. Warrants issued in pursuance of an act to provide for the disposal of the five hundred thousand acres of land, granted to this state by act of Congress, that the people of the state of California may avail themselves of the benefits of the eighth section of the act of Congress approved April fourth, eighteen hundred and forty-one, chapter sixteen, entitled an act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights, the following provisions are hereby enacted, approved May third, eighteen hundred and fifty-two, shall be taken in payment of any part of the said grant in the above title described; provided, that the said warrants shall be paid directly to the register of the state land office, and shall be by him canceled, before a certificate of purchase shall issue for the said lands.

§ 55. Each application for lands under the provisions of this act shall be accompanied by a fee of five dollars. The surveyor-general, in addition thereto, shall demand and receive the same fees allowed the register of the state land office for like service. The surveyor-general shall use said fees so collected by him, so far as necessary in defraying the expenses of procuring maps, records, documents and extra assistance needed either by the surveyor-general or the register of the state land office, and shall pay the residue thereof into the state treasury, and shall give a correct statement of said expenditures in his biennial report to the governor. [Amendment, Stats. 1869-70, 875.]

§ 56. It shall be the duty of the board of examiners created by an act approved April twenty-first, eighteen hundred and fifty-eight, entitled an act to create a board of examiners, to define their powers and duties, and to impose certain duties upon the controller and treasurer, whenever it shall appear to said board that the treasurer of state has received into the treasury the sum of ten thousand dollars or upwards, paid in as purchase money for any portion of the five hundred thousand acres granted to the state for school purposes, for the sixteenth and thirty-sixth sections, or lands in lieu thereof, and as often thereafter as the like sum shall have been paid in as aforesaid, to purchase bonds of the civil funded debt of the state issued since the first day of January, A. D. eighteen hundred and fifty-eight, or that may be hereafter issued, to the amount of said money paid in as aforesaid will purchase at the lowest price at which they may be purchased, after advertising for two weeks in one daily newspaper published in the city of San Francisco, and one in the city of Sacramento, for sealed proposals for the sale of said bonds. The said board shall open said proposals at the time and place specified in said publication, in the presence of the treasurer and controller of state, and accept only of such proposals as offer bonds at the greatest discount to the amount of funds in the treasury, paid in as purchase money for school lands, will purchase. Said board shall audit the amount due said bidder or bidders for his or their bonds, which amount shall be certified to the controller of state by said board; the controller shall then draw his warrant on

the treasurer for the amount audited by said board, and said board of examiners shall deliver said warrants to the persons in whose favor they are drawn; and the bonds so purchased shall be delivered to the state treasurer, who shall keep said bonds as a special deposit in his custody, marked "School Fund," to the credit of said school fund; provided, however, that no bonds shall be purchased at more than par value. All interest paid into the treasury under the provisions of this act shall be subject to the order of the state board of education. It is further provided, that if at any time the board of examiners shall have at their disposal the sum of ten thousand dollars or upwards, to be invested as contemplated in this act, for the benefit of the state school fund, and they shall deem it for the best interests of said fund, the said board are hereby authorized and empowered to become bidders for the purchase of California state bonds, should the treasurer of state have advertised at such times for the sale and disposal of bonds under any law already passed or that may hereafter be passed by the legislature of this state; the bids of the said board to be made according to law, and to be received by the treasurer of state in the same manner and under the same restriction as if received from individuals; and if upon the opening of said bids it is found that the board of examiners are entitled to receive the amount of their bid, or any portion thereof, the treasurer of state shall deliver to the said board the amount of bonds to which they are entitled under the provisions of his advertisement, and the controller of state shall draw his warrant in favor of the treasurer for the amount of the bid of said board accepted by said treasurer of state, and the bonds so awarded and delivered to the board of examiners shall be at once placed to the credit of the state school fund, to be held by the state treasurer as a special deposit for said school fund.

§ 57. All moneys, securities or other property arising from the sale of the seventy-two sections granted to the state for a seminary of learning, and from the sale of the ten sections granted to the state for the erection of public buildings, whether as principal or interest, shall be paid out of the state treasury or delivered over, on the order of the board of directors of the Agricultural, Mining and Mechanical Arts College, or to such other corporation or board as shall be appointed to succeed or represent them.

§ 58. All persons who have purchased any portion of either of the grants mentioned in the preceding section, on a credit, are hereby required to pay the principal and any interest that may be due within one year after the passage of this act. All amounts remaining unpaid at the end of that time shall be included in the delinquent list provided in section six of this act, and the district attorney shall proceed against such delinquents as provided in sections sixty-five, sixty-six, sixty-seven and sixty-eight of this act; and if such lands revert to the state, they shall be under the control of the board of regents of the University, who shall dispose of the same in such manner and at such prices as they may deem best. [Amendment, Stats. 1869-70, 875.]

§ 59. Any person making application for a duplicate school-land warrant, in lieu of one alleged to have been lost or destroyed, shall make satisfactory proof, by affidavit of himself or others, to the register of the state land office, that the party applying therefor is the bona fide owner of such warrant, that

the same has not been located, and of the facts establishing the loss or destruction of the same, and shall file with the register of the state land office a good and sufficient bond, in form joint and several, with two or more sureties, to be approved by said register, payable to the state of California in double the value of said school land warrant, conditioned that the said warrant alleged to have been lost or destroyed shall not be presented for location; and in any case where, for want of a proper acknowledgment of an assignment of the original, or partial destruction or defacement thereof, or for any other cause, it cannot be made available, the applicant shall make affidavit that he is the owner of the warrant, together with affidavit of any other person or persons, to the satisfaction of the register, showing the fact of the assignment and that such warrant has not been located, and shall file the original warrant for cancelation with the register of the state land office. The said register shall certify that the applicant is entitled to a duplicate school-land warrant in lieu of the one proven to have been lost or destroyed, or presented for cancelation, and upon presentation of such certificate to the governor he shall prepare and deliver to the said applicant a duplicate warrant bearing the same number as the original warrant, having the word "Duplicate" written across the face thereof, which said warrant when so issued shall be of the same validity and have the same force and effect as the original. The register of the state land office shall in no case give the certificate above required until he shall be satisfied that the original has not been located, or, if located, that the lands so located have not been and will not be charged to this state by the federal government as a portion of the five hundred thousand acres of land granted to this state for internal improvements.

§ 60. The board of directors of the Agricultural, Mining and Mechanical Arts College, or such corporations as may be appointed by law to succeed them, shall have power to order the selection of the grant of one hundred and fifty thousand acres of land granted to the state for the use of an agricultural college, and dispose of the same at such price and in such manner as they shall deem best for the interests of the college, and it shall be the duty of the land agent of the University, as the agent of the state, to select the lands in the United States land offices, according to the instructions of said board or corporation, and it shall be the duty of the said land agent to issue certificates of purchase and patent to purchasers who comply with the conditions ordained by the said board or corporation, in the manner prescribed in sections four and five of this act; and the said board or corporation shall invest any and all moneys accruing from the sale of said lands as they shall deem best, subject only to the conditions of the act of Congress granting said lands. [Amendment, Stats. 1869-70, 875.]

PART IV.—MISCELLANEOUS PROVISIONS.

§ 61. If any person, being the legal holder of a certificate of purchase for any state lands, shall claim that said certificate has been lost or destroyed, the register of the state land office shall proceed to take such ex parte testimony as he shall deem expedient concerning the loss of the same; provided, that said party so applying shall, before the hearing of said matter, publish a

notice in some newspaper published in the county where the said land is situated; or if there be no newspaper published in the county, then in some newspaper of general circulation in the county, for at least four consecutive weeks, describing the certificate and the lands for which the same was issued, by legal subdivisions, and giving the name of the person to whom it was issued, and the person then claiming to own it. If the said register shall be satisfied of the loss or destruction of said certificate, he shall issue to the legal owner thereof a duplicate certificate, which shall have the word "Duplicate" plainly written across the face thereof with red ink. Said duplicate, when issued, shall have all the force and effect of an original. If there shall be a contest as to the issuance of a duplicate certificate, the register shall hear and determine said contest, or transfer the same to the proper court, as provided in section seventeen of this act.

§ 62. In all cases where patents for lands have been or may hereafter be issued, in pursuance of any law of this state or of the United States, to a person who has died or shall hereafter die before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees or assignees of such deceased patentee as if the patent had issued to the deceased person during life.

§ 63. In the event of any of the lands sold by the state proving to be within the boundaries of a grant, or otherwise not the property of the state, the holder or assignee of the certificate of purchase or patent shall be entitled to receive in exchange therefor a certificate from the register of the state land office that such amount has been paid. This certificate shall specify the kind or class of land upon which the said amount was paid, and the controller of state, upon the presentation and surrender to him of said certificate, shall draw his warrant upon the treasurer of state, or upon the county treasurer of the county wherein the land is situated, if the same is swamp-land, in favor of the owner and holder of said certificate, for the amount therein specified, payable out of the proper fund, and the treasurer of state shall pay said warrant drawn in pursuance of the provisions of this section. [Amendment, Stats. 1869-70, 875.]

§ 64. Whenever a purchaser of any state land upon a credit desires to abandon the location or entry made by him, he shall do so by acknowledgment and reconveyance of his title to the state, and shall surrender the certificate of purchase, or, if the same has been lost, send to the register an affidavit of the fact.

§ 65. Upon receipt of the delinquent list aforesaid from the register of the state land office, as provided in section six, the district attorney shall add thereto a notice that if the said amount due shall not be paid in fifty days after the date thereof, he will commence suit to foreclose the interest of said purchasers in the said lands, and shall publish said list, with said notice appended, for four consecutive weeks immediately following the date of the notice; or if there shall be no newspaper published in said county, then he shall post copies of the same in at least five public places in the county. After the expiration of the fifty days, the district attorney shall, in the name of the people of the state of California, commence an action in the district court against all pur-

chasers or holders of certificates of purchase who have not either paid said amount so due, together with the cost of publication, or surrender the title to the state, as provided in the preceding section, to obtain a decree of foreclosure of the interest of the purchaser or holder of the certificate of purchase in the land, and to annul said certificate of purchase. If the name of the holder of the certificate be not known, he may be sued under a fictitious name, and service of the summons may be had by publication in some newspaper published in the county for four weeks; or if no newspaper be published in the county, then by posting one copy of the summons for four weeks at the courthouse door of the county, and two copies in public places in the township where the land is situated.

§ 66. When a decree shall have been obtained, and within twenty days after the entering up of said decree, the district attorney shall cause a certified copy of said decree to be filed in the office of the register of the state land office, and another certified copy in the recorder's office of the county in which the land is situate. The holder of the certificate of purchase may, at any time before the expiration of the twenty days provided for filing a certified copy of the decree in the office of the register of the state land office and recorder of the county, pay to the sheriff, for the state, the amount due the state and the costs of suit that have accrued up to the time of payment; whereupon the district attorney shall dismiss the suit, and the purchaser or holder of the certificate of purchase shall be restored to his rights in the land, the same as if no neglect or forfeiture had been made. The district attorney shall be entitled to receive ten dollars for each suit brought.

§ 67. After the decree of the court foreclosing the interest of the purchaser or the holder of the certificate has been entered, and the certified copies filed in the offices of the recorder of the county and the state land register, the land shall be subject to entry and sale, and a certificate of purchase may be issued, in the same manner as if the land had never been entered and sold. Upon the obtaining of a decree foreclosing the interest of the purchaser or of his assigns in the land, and annulling the certificate of purchase, the expenses and cost shall be taxed by the court against the defendant, and execution shall issue thereon; but if there be not sufficient property belonging to defendant found to satisfy the same, and the execution returned not satisfied, then the same shall be paid from the twenty per centum of the principal of the purchase money, or from the interest paid by the purchaser at the time of the original location and entry of the land; provided, that the total cost shall not be taxed at a sum in any case to exceed thirty-two dollars; provided further, that the cost of the publication required in section sixty-five shall not be a part of the thirty-two dollars; but the same shall, if it cannot be collected of the purchaser, if the lands described be swamp and overflowed, salt-marsh or tide lands, be paid out of the swamp-land fund, on the order of the board of supervisors; or if any class of school lands, then out of the general fund of the state.

§ 68. Any person having a good and sufficient conveyance to the whole or any portion of the lands described in any certificate of purchase, to annul which suit shall have been commenced as above provided, but to whom the certificate has never been surrendered, shall have a right to defend said action;

and if he or she shall show, to the satisfaction of the court, that he or she is entitled to any portion of the lands described, and if the holder of said certificate does not come forward and pay the amount due, then the court shall order the certificate annulled, and a new one to issue to the defendant by the payment, in open court, by the defendant, of the amount due the state upon the whole tract; and the said defendant shall thereupon be entitled to two certified copies of said decree, one of which he shall file [in] the county recorder's office, and the other with the register of the state land office.

§ 69. Certificates of purchase and all rights acquired thereby shall be subject to sale and transfer, by deed or assignment, executed and acknowledged before any officer authorized by law to take acknowledgments of deeds, or before said register; but all such sales or transfers shall, when recorded by the county recorder, be reported by him to the register, to be entered in the books of his office; and the said recorder shall be entitled to receive from the purchaser or transferee, for so reporting the same, a fee of fifty cents in addition to that already allowed for recording.

§ 70. All the swamp and overflowed, salt-marsh and tide lands within one mile of the state prison at San Quentin, within five miles of the city and county of San Francisco, within five miles of the corporate limits of the city of Oakland, and within two miles of any town or village, are hereby excluded from the provisions of this act; provided, that this act shall not be construed to authorize the sale of any land below low tide. [Amendment, Stats. 1869-70, 875.]

[The amendatory act of 1869-70 also contained the following section: "§ 9. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect from and after its passage."]

§ 71. An act entitled an act to provide for the disposal of the five hundred thousand acres of land granted to this state by act of Congress, that the people of the state of California may avail themselves of the benefits of the eighth section of the act of Congress approved April fourth, eighteen hundred and forty-one, chapter sixteen, entitled an act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights, the following provisions are hereby enacted, approved May third, eighteen hundred and fifty-two; an act entitled an act to provide for the selection of lands donated by the United States, for the support of common schools, and for the erection of public buildings, approved May seventh, eighteen hundred and fifty-five; an act entitled an act to provide for the location and sale of the unsold portion of the five hundred thousand acres of land donated to this state for school purposes, and the seventy-two sections donated to this state for the use of a seminary of learning, approved April twenty-third, eighteen hundred and fifty-eight; an act entitled an act authorizing the location and protection of school lands, approved April thirtieth, eighteen hundred and fifty-seven; an act entitled an act to provide for the sale of the sixteenth and thirty-sixth sections of land donated to this state for school purposes by act of Congress passed March third, eighteen hundred and fifty-three, approved April twenty-sixth, eighteen hundred and fifty-eight; an act entitled an act to provide for the issuance of patents to lands located with state school land warrants, and for lands purchased under the act of April twenty-third, eighteen hundred

and fifty-eight, approved April sixteenth, eighteen hundred and fifty-nine; an act entitled an act to provide for the location of school land warrants upon unsurveyed lands, and for the issuance of title for the same, approved April eighteenth, eighteen hundred and fifty-nine; an act entitled an act to provide for the sale of the swamp and overflowed lands belonging to this state, approved April twenty-eighth, eighteen hundred and fifty-five; an act entitled an act to provide for the authentication of certain evidence in relation to swamp and overflowed lands heretofore sold by this state, approved March thirteenth, eighteen hundred and fifty-eight; an act entitled an act to provide for the sale and reclamation of the swamp and overflowed lands of this state, approved April twenty-first, eighteen hundred and fifty-eight; an act entitled an act for the relief of the purchasers of lands from the state of California, approved April eighth, eighteen hundred and fifty-nine; an act entitled an act making certificates of purchase or of location evidence of title, approved April thirteenth, eighteen hundred and fifty-nine; an act entitled an act to give effect to patents for lands issued in the name of deceased persons, approved February thirteenth, eighteen hundred and sixty; an act entitled an act to extend the time for the payment of the principal of the purchase money on lands sold by the state on a credit, approved February fifth, eighteen hundred and sixty-one; an act entitled an act to provide for the annulling of certificates of purchase of lands sold on a credit and declared forfeited for non-payment of interest or principal, and for the relief of purchasers of swamp and overflowed lands, approved April ninth, eighteen hundred and sixty-one; an act entitled an act in relation to the entry of lands in certain cases, and to provide for the issuance of patents therefor, approved April twenty-ninth, eighteen hundred and sixty-one; an act entitled an act to provide for the reclamation and segregation of swamp and overflowed, and salt-marsh and tide lands donated to the state of California by act of Congress, approved May thirteenth, eighteen hundred and sixty-one; an act entitled an act to provide for the sale of the marsh and tide lands of this state, approved May fourteenth, eighteen hundred and sixty-one; an act entitled an act to provide for the reclamation of the salt-marsh and tide lands, approved April twenty-seventh, eighteen hundred and sixty-three; an act entitled an act to suspend the laws allowing the sale of unsurveyed lands, and relating to the issuance of patents, approved April first, eighteen hundred and sixty-four; an act entitled an act in relation to swamp-land district funds, approved April fourth, eighteen hundred and sixty-four; an act entitled an act creating a state land office for the state of California, approved April tenth, eighteen hundred and fifty-eight; an act entitled an act to authorize the register of the state land office to issue duplicate certificates of purchase to school, or swamp and overflowed, and salt-marsh and tide lands, when the originals have been lost or destroyed, approved April fifteenth, eighteen hundred and sixty-two; an act entitled an act fixing the salary of the register of the state land office, approved April twenty-eighth, eighteen hundred and sixty; an act entitled an act in relation to the register of the state land office, approved April third, eighteen hundred and sixty-two; an act entitled an act to provide for the sale of certain lands belonging to the state, approved April twenty-seventh, eighteen hundred and sixty-three; an act entitled an act to provide for the issuance of patents to

lands located with state school land warrants, and for lands purchased under the act of April twenty-third, eighteen hundred and fifty-eight, approved April sixteenth, eighteen hundred and fifty-nine; an act entitled an act to provide for the selection of the lands donated to the state of California by act of Congress approved July second, A. D. eighteen hundred and sixty-two; for the endowment of colleges for the benefit of agriculture and the mechanic arts, and all lands that may be granted to the state for like purpose, approved April second, eighteen hundred and sixty-six; and all acts amendatory of or supplemental to any of the foregoing acts, and all other acts or parts of acts in conflict with the provisions of this act, are hereby repealed; provided, however, that the provisions of this act shall not in any manner affect any legal or equitable claims, now existing on any of the lands hereinbefore described, in favor of any claimant under the state, nor affect any suit or proceeding which is now pending respecting the same, arising out of any claims now made; but the courts of the state may proceed and adjudicate upon said rights, and patents or other evidences of title may issue for the same to the parties entitled thereto, under any existing laws of this state, the provisions of this act to the contrary notwithstanding.

§ 72. Immediately after the passage of this act the state printer shall print two thousand copies of the same in pamphlet form and deliver them to the register of the state land office for distribution to state and county officers.

As to part II of the foregoing statute of 1868, relating to swamp-lands, see next following supplementary statute, and see

Reclamation Districts. And see decisions upon the entire subject following the supplementary statute.

An act supplementary to an act to provide for the management and sale of the lands belonging to the state, approved March twenty-eight (28), eighteen hundred and sixty-eight (1868).

(Stats. 1869-70, 878, ch. DLXXV.)

§ 1. All settlers upon the swamp and overflowed lands belonging to the state, whose settlement is evidenced by actual inclosure, or by ditches, plough furrows or monuments, showing clearly the metes and bounds of their possessory claim, and the same are occupied for purposes of tillage or grazing, are hereby recognized as possessing an equitable claim to the land so inclosed or occupied by them, within the true intent and meaning of the act to which this is supplementary, and are declared preferred purchasers for such lands to the extent of such inclosure or occupancy, within the limits of time herein-after set forth; and the county surveyor shall return surveys of such settlers in accordance with the lines of their possessory claims, connecting the same with the United States surveys.

§ 2. The surveyor-general of the state shall not approve nor shall the register of the state land office issue title for any swamp and overflowed land, until six months after the same shall have been segregated by authority of the United States, or of the state, by legislative enactment; and for ninety days after the filing of plats showing said line of segregation in the United States land office for the district in which the land is situate, the settlers possessing equitable claims under section one of this act shall be deemed preferred purchasers and shall file their applications for survey of their possessory claims

with the county surveyor of the county in which the land is situate within the said ninety days.

§ 3. The provisions of this act shall not apply to any lands within the limits of the county of San Francisco, or within five miles of the exterior boundaries of said county.

§ 4. This act shall take effect and be in force from and after its passage.

STATS. 1867-8 REPEALED.—It is held that the foregoing act repealed all former statutes on same subject.—See *Kings County vs. Tulare County*, 119 Cal. 509-512, 51 Pac. Rep. 866; *People ex rel. Thisby vs. Reclamation Dist.*, 130 Cal. 607-610, 63 Pac. Rep. 27, and cases cited in those decisions.

STATS. 1867-8, 507.—§ 4—*Young vs. Shinn*, 48 Cal. 26, 28. §§ 12, 52—*Oakley vs. Stuart*, 52 Cal. 521, 534. §§ 16, 23—*Rowell vs. Perkins*, 56 Cal. 219, 223. § 17—*People vs. Carrick*, 51 Cal. 325, 328; *Perri vs. Beaumont*, 91 Cal. 30, 33, 27 Pac. Rep. 534. § 22—*Klauber vs. Higgins*, 117 Cal. 451, 457, 49 Pac. Rep. 466. § 23—*People ex rel. Lynch vs. Martz*, 74 Cal. 110, 111, 15 Pac. Rep. 449. § 29—*Hopkins vs. Orcutt*, 51 Cal. 537. §§ 29, 33, 34—*Hagar vs. Board Supervisors*, 51 Cal. 474-476; §§ 30, 31—*People vs. Haggin*, 57 Cal. 579, 585. § 30—*People vs. Reclamation Dist.*, 121 Cal. 522, 523-527, 50 Pac. Rep. 1068, 53 Pac. Rep. 1085. §§ 30, 31, 35—*People vs. Haggin*, 57 Cal. 579, 585. §§ 30-43—*Reclamation Dist. vs. Goldman*, 65 Cal. 635, 636, 4 Pac. Rep. 676. §§ 32, 33, 35, 46—*People vs. Hagar*, 52 Cal. 171, 181-188. §§ 32, 47, 71—*People ex rel. Thisby vs. Reclamation Dist.*, 130 Cal. 607, 609, 63 Pac. Rep. 27. §§ 33-36—*Moulton vs. Parks*, 64 Cal. 167, 175, 30 Pac. Rep. 613. §§ 33, 34—*Swamp L. Dist. vs. Haggin*, 64 Cal. 204, 206-209, 30 Pac. Rep. 631. §§ 33-35—*Reclamation Dist. vs. Parvin*, 67 Cal. 501, 502, 8 Pac. Rep. 43. § 34—*Reclamation Dist. vs. Hagar*, 66 Cal. 54, 56, 4 Pac. Rep. 945. § 35—*People vs. Ahern*, 52 Cal. 208, 211; *People vs. Hagar*, 52 Cal. 171, 181; *Reclamation Dist. vs. Goldman*, 61 Cal. 205, 207. § 43—*People ex rel. Attorney-General vs. Parvin*, 74 Cal. 549, 550, 16 Pac. Rep. 490. § 51—*Rowell vs. Perkins*, 56 Cal. 219,

223. § 52—*Gilson vs. Robinson*, 68 Cal. 539, 542, 10 Pac. Rep. 193. §§ 53-58—*Cucamonga F. L. Co. vs. Moir*, 83 Cal. 101, 106, 22 Pac. Rep. 55, 23 Pac. Rep. 359. § 55—*People vs. Gardner*, 55 Cal. 304, 307. §§ 66, 67—*Hyde vs. Redding*, 74 Cal. 493, 502, 16 Pac. Rep. 380. § 69—*People vs. Blake*, 84 Cal. 611, 615, 22 Pac. Rep. 1142, 24 Pac. Rep. 313. § 70—*Easton vs. O'Reilly*, 63 Cal. 305, 308; *Klauber vs. Higgins*, 117 Cal. 451, 460, 49 Pac. Rep. 466; *People vs. Hagar*, 49 Cal. 229-232; *People vs. Houston*, 54 Cal. 536, 537; *Johnson vs. Squires*, 55 Cal. 103, 104; *People vs. Gardner*, 55 Cal. 304, 306; *Upham vs. Hosking*, 62 Cal. 250, 258; *Heath vs. Wallace*, 71 Cal. 50, 53, 11 Pac. Rep. 842; *Manley vs. Cunningham*, 72 Cal. 236, 238, 13 Pac. Rep. 622; *Marshall vs. Farmers' Bank*, 115 Cal. 330, 333, 42 Pac. Rep. 418, 47 Pac. Rep. 52; *Hooper vs. Young*, 140 Cal. 274, 279, 98 Am. St. Rep. 56, 73 Pac. Rep. 140; *Miller vs. Grunsky*, 141 Cal. 441, 446, 66 Pac. Rep. 858, 75 Pac. Rep. 48.

STATS. 1871-2, 858.—*Swamp Land Dist. vs. Haggin*, 64 Cal. 204, 209, 30 Pac. Rep. 631; *Reclamation Dist. vs. Goldman*, 65 Cal. 635, 638, 4 Pac. Rep. 676.

STATS. 1869-70, 875, 878.—§ 2—*Cox vs. Jones*, 47 Cal. 412, 413; *Christman vs. Brainard*, 51 Cal. 534, 537. §§ 11, 12—*Rogers vs. Shannon*, 52 Cal. 99, 106. § 12—*Gilson vs. Robinson*, 68 Cal. 539, 543, 10 Pac. Rep. 193. § 23—*Rowell vs. Perkins*, 56 Cal. 219, 224. § 53—*Copp vs. Harrington*, 47 Cal. 236, 240. § 55—*People vs. Gardner*, 55 Cal. 304, 307; *Ramsey vs. Flournoy*, 58 Cal. 260, 261; *People vs. Donnelly*, 58 Cal. 144, 145; *Easton vs. O'Reilly*, 63 Cal. 305, 309; *People ex rel. Eadie vs. Noyo Lumber Co.*, 99 Cal. 456, 460, 34 Pac. Rep. 96.

See tit. **Mineral Lands.**

LANDS OF STATE—SIXTEENTH AND THIRTY-SIXTH SECTIONS.

To protect bona fide settlers upon public lands.

(Stats. 1873-4, 543, ch. CCCLXXX.)

§ 1. Bona fide settlers upon any sixteenth or thirty-sixth section, which at the time of such settlement was embraced within any survey made under claim or color of any Spanish or Mexican grant, but which has since been or hereafter may be restored to the public domain by the proper officers of the government of the United States, shall be preferred purchasers for the lands so settled upon by them to the lines of their actual possession, and in accordance with the general system of government surveys, and not exceeding three hundred and twenty acres; and all applications made by such settlers to purchase said lands from the state within one year from the date of such restora-

tion, are hereby declared to entitle said settlers to become preferred purchasers for the lands so held as aforesaid, in the same manner and to the same extent as if made within the sixty days, as now provided for by law; and said sixty days preferment is hereby extended to, and declared to be, one year from the date of said restoration; and all such applications made within one year from the date of said restoration shall be held and deemed as valid and binding as if made within sixty days from the date of said settlement.

§ 2. This act shall take effect and be in force from and after its passage.

See next following statute; also see statute, post, for **Relief of Purchasers**, p. 658. **Lands—State**, 1871-2, 587, amended 1877-8, 914, and note thereunder.

LANDS OF STATE—SIXTEENTH AND THIRTY-SIXTH SECTIONS.

To provide for the applications for purchase of sixteenth and thirty-sixth sections, and to regulate the application for purchase of such sections, and requiring a deposit to accompany all applications for the purchase of the same.

(Stats. 1889, 434, ch. CCLXXXI.)

§ 1. Every application to purchase any portion of the sixteenth and thirty-sixth sections shall be accompanied by a deposit of twenty dollars, in addition to the fee for filing now required by law, for which the surveyor-general shall give the applicant a receipt, which receipt shall be accepted by the county treasurer in part payment of the purchase price of said land. If the applicant shall abandon or forfeit his said application, or shall fail to make proper proof as to the character of the said land, or as to his residence thereon, within the time allowed by law, or if his application shall be rejected by reason of any false statement in the affidavit herein contained, the twenty dollars thus paid shall go to the state school fund. If it is found that the surveyor-general erred in receiving the application, or that the state cannot make a good title to the land, then the applicant or his assigns may surrender to the surveyor-general the said receipt, and receive in exchange therefor a certificate showing the amount so paid, and the reason why the application could not be approved or perfected, and the controller, upon the surrender to him of the said surveyor-general's certificate, shall issue to the applicant, or his assigns, a warrant for the said amount.

§ 2. Any number of filings on any section of land is hereby permitted and allowed under the provisions of this act. Should the first filing be abandoned by the applicant, the next filing on such section, in order, shall have the same right as if it had been the first filing.

§ 3. The moneys received by the surveyor-general under the provisions of this act, except the moneys forfeited under section one, shall be paid to the state treasurer at the close of each month, and must be placed in a fund to be called "School Land Deposit Fund," to the credit of the county in which the lands applied for are situated. When any moneys are placed in the "School Deposit Fund" to the credit of a county, the controller, at the next settlement with the controller by the treasurer of such county, must draw his warrant upon the state treasurer for the amount in the fund to the credit of the county; provided, that the direction herein to the controller is exempted

from the operations of section six hundred and seventy-two of the Political Code.

Buttle vs. Wright, 139 Cal. 624, 625, 73 Pac. Rep. 454.

LANDS OF STATE—RELIEF OF PURCHASERS.

To enable purchasers of state lands to redeem the same, where their titles have been, or may hereafter be foreclosed for non-payment of interest.

(Stats. 1881, 66, ch. LV:)

§ 1. In all cases where the title of purchasers of land from the state has been foreclosed, or attempted to be foreclosed, or that may hereafter be foreclosed, for non-payment of interest, said purchasers, their executors, administrators, or successors in interest shall have, twelve months after said foreclosures are or have been completed, within which to redeem such land, by paying to the county treasurer, for the benefit of the fund, or parties entitled thereto, all delinquent interest, and interest that would have accrued in case there had been no foreclosure; also, all costs of foreclosure to be paid to the fund, or the parties who paid said costs. When said payments are made, and indorsed on the certificate of purchase, specifying the amount paid as interest and for costs, and duly reported to the register of the land office, the annulments shall be canceled by said officer, and the rights of the purchaser shall thereby be fully restored.

§ 2. This act shall take effect and be in force from and after its passage.

Marshall vs. Farmers' Bank, 115 Cal. 330, 333, 42 Pac. Rep. 418, 47 Pac. Rep. 52; People vs. Norris, 144 Cal. 422, 425, 77 Pac. Rep.

998; Lux vs. Haggin, 69 Cal. 255, 426, 10 Pac. Rep. 674.

LANDS OF STATE—BEACH AND WATER LOTS.

To provide for the disposition of certain property of the state of California.

(Stats. 1851, 307, ch. 41.)

BEACH AND WATER LOTS OF SAN FRANCISCO.—By the above-mentioned statute the state granted to San Francisco for a period of ninety-nine years the beach and water lots within certain limits, to be thereafter defined by a red line on a map to be procured by San Francisco and to be deposited in the offices of secretary of state and state surveyor-general. The red line is to denote the permanent line of the water-front. This statute expressly reserved to the state its right to regulate the construction of wharves and other improvements.

By statute of same year (p. 311, ch. 44), San Francisco was empowered to construct wharves at the ends of streets to a distance not exceeding two hundred yards beyond the line of beach and water lots, and the right of the state to beach and water lots, with certain reservations; but this statute was repealed by Stats. 1853, 36.

By Stats. 1853, 219 (Compiled Laws, 1850-3, 767), provision was made for the sale of the reversionary interest of the state within the limits defined by the statute of 1851,

above. The latter statute was supplemented by Stats. 1855, 226, and 1858, 139.

By Stats. 1858, 323, the governor was authorized to sell certain of the beach and water lots remaining and situate between Sacramento and Clay streets, confirming streets that had been laid out crossing the tract; and by Stats. 1877-8, 417, the deeds of the commissioners appointed under the statutes of 1851 and 1853 to certain lots believed to be outside of the water-front line, as defined by those statutes, were confirmed and made valid.

The subject is now past history, but the following decisions are given for the benefit of those desiring to investigate:

Stats. 1851, 307; 1853, 219. — Chapin vs. Bourne, 8 Cal. 294; Holladay vs. Frisbie, 15 Cal. 630, 631; Wheeler vs. Miller, 16 Cal. 125.

Concerning the relation of San Francisco to this property, and certain sales thereof, and the action of the state legislature in connection therewith, see Grogan vs. San Francisco, 18 Cal. 590, 607-615; Pimental vs. San Francisco, 21 Cal. 652.

Upon the general subject of the statutes, see *Knight vs. Haight*, 51 Cal. 169; *Friedman vs. Nelson*, 53 Cal. 589; *Le Roy vs. Dunkerly*, 54 Cal. 452.

The state reserved its control of the navigable waters, in connection with other legislation.—See *People vs. Williams*, 64 Cal. 498, 2 Pac. Rep. 393; *San Francisco vs.*

Straut, 84 Cal. 124, 24 Pac. Rep. 814. And see *United States vs. Mission Rock Co.*, 189 U. S. 391, 406, bk. 47 L. ed. 865, 869.

See *tits. Mineral Lands; Forest Reservations; Levee Districts; Martinez; Napa County; Parks; Protection Districts; Reclamation Districts; Suseol Rancho; Torrens Land System.*

LANDS OF STATE—RELINQUISHING.

Relinquishing to the United States of America the title of this state to certain lands.

(Stats. 1897, 74, ch. LXXXI.)

§ 1. All the right and title of the state of California in and to the parcels of land extending from high-water mark out to three hundred yards beyond low-water mark, lying adjacent and contiguous to such lands of the United States in this state as lie upon tidal waters and are held, occupied, or reserved for military purposes or defense, lying adjacent and contiguous to any island, the title to which is in the United States, or which island is reserved by the United States for any military or naval purposes or for defense, are hereby granted, released, and ceded to the United States of America; the boundaries of each parcel of land hereby granted, released, and ceded to the United States to be a line along high-water mark, a line three hundred yards out beyond low-water mark, and lines at right angles to high-water mark at the points where the boundaries of the adjacent lands of the United States touch high-water mark; provided, that the title to each parcel of land hereby granted, released, and ceded to the United States shall be, and remain in the United States only so long as the United States shall continue to hold and own the adjacent lands now belonging to the United States; and provided further, that this state reserves the right to serve and execute on said lands all civil process, not incompatible with this cession, and such criminal process as may lawfully issue under the authority of this state against any person or persons charged with crimes committed without said lands.

§ 2. This act shall take effect immediately.

LANDS OF STATE—ROCKLIN.

To authorize the governor and surveyor-general to sell and convey the state's interest in certain lands.

(Stats. 1891, 251, ch. CLXXIII.)

§ 1. The governor and surveyor-general are hereby authorized and directed to convey, release, quitclaim, and confirm all right, title, and interest of the state of California of, in, and to all that portion of the southeast quarter of section nineteen, township eleven north, range seven (7) east, Mount Diablo meridian, which is not embraced within the exterior boundaries of the lands set apart and heretofore conveyed by the state of California to the Masons and Odd Fellows of Rocklin, Placer County, California, for cemetery purposes, to the respective claimants and occupants thereof, as shown by the official map and field-notes of survey of said lands, made by W. S. Graham, county sur-

veyor of Placer County, California, now on file in the office of the recorder of Placer County, upon making and filing with the surveyor-general proof, by affidavit, setting forth that the applicant was, at the date of said survey, in possession of the portion of said land claimed by him, her, or them, or an actual settler thereon, and upon the payment into the state treasury of the sum of five dollars per acre, or fraction thereof, as shown by said survey and field-notes; provided, that the present occupants and claimants shall be preferred purchasers of the respective lots and parcels of said lands claimed and occupied by them for the space of one year from the passage of this act; and provided further, that all rights of way for all roads, railroads, tracks, and spurs now existing upon or over said lands shall be excepted from the title hereby authorized to be conveyed.

LANDMARKS.

See tits. **Colton Hall; Fort Ross; Historic Property.**

LAND SURVEYORS—LICENSED.

To define the duties of and to license land surveyors.

(Stats. 1891, 478, ch. CCLV.)

§ 1. Every person desiring to become a licensed land surveyor in this state must present to the state surveyor-general of this state a certificate that he is a person of good moral character; also, a certificate signed by three licensed surveyors, or a certificate signed by the board of examining surveyors (provided for in section five of this act), which certificate shall set forth that the person named therein is, in the opinion of the person[s] signing the same, a fit and competent person to receive a license as a land surveyor, together with his oath that he will support the constitution of this state and of the United States, and that he will faithfully discharge the duties of a licensed land surveyor, as defined in this act.

§ 2. Upon receipt of such certificate and oath by the state surveyor-general, it shall be his duty forthwith to issue to such applicant a license, without charge, which license shall set forth the fact that the applicant is a competent surveyor, or that he has had at least two years' experience in the field as a surveyor or assistant surveyor.

§ 3. Such license shall contain the full name of the applicant; the technical institution from which he is a graduate (if he be a graduate), or if he be not a graduate, the fact must be stated in the license; his birthplace, age, and to whom issued; the name of the person upon whose certificate the license is issued, and the date of its issuance.

§ 4. All papers received by the state surveyor-general on application for licenses shall be kept on file in his office, and a proper index and record thereof shall be kept by him, and a list of all licensed land surveyors shall be kept by him, and he shall monthly transmit to the county recorder of each county in this state a full and correct list of all persons so licensed; and it is hereby made the duty of such recorders to keep such lists in their offices in such a way as they may be easily accessible to all persons.

§ 5. Within twenty days after the passage of this act, the governor shall appoint three surveyors in good standing, members of the Technical Society of the Pacific Coast, and two other surveyors in good standing, not members of such society, as a board of examining surveyors, who shall conduct such examinations and make such inquiries as to them may seem necessary to ascertain the qualifications of applicants for surveyors' licenses.

§ 6. A majority of the board of examining surveyors shall meet on the first Friday of each month during their term of office, in the rooms of the Technical Society of the Pacific Coast, in San Francisco, and at such other times and places as they may select. The members of the board shall hold office for the term of one year from the date of appointment, and shall serve without compensation.

§ 7. Every licensed surveyor shall have a seal of office, the impression of which must contain the name of the surveyor, his principal place of business, and the words "Licensed surveyor;" and all maps and papers signed by him, and to which said seal has been attached, shall be prima facie evidence in all the courts of this state.

§ 8. Surveyors' licenses, issued in accordance with this act, shall remain in force until revoked for cause, as hereinafter provided.

§ 9. Every licensed surveyor is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish old or lost corners; or, if a corner or monument be found in a perishable condition, and it appears desirable that evidence concerning such corner or monument be perpetuated; or whenever the importance of the survey makes it desirable, to administer an oath for the faithful performance of duty to his assistants. A record of such oaths shall be preserved as a part of the field-notes of the survey.

§ 10. Every licensed surveyor is hereby authorized to make surveys relating to the sale or subdivision of lands, the retracing or establishing of property or boundary lines, public roads, streets, alleys, or trails; and it shall be the duty of each surveyor, whenever making any such surveys, except those relating to the retracing or subdivision of cemetery or town lots, whether the survey be made for private persons, corporations, cities, or counties, to set permanent and reliable monuments, and such monuments must be permanently marked with the initials of the surveyor setting them.

§ 11. Within sixty days after a survey relating to the sale or subdivision of lands, the retracing or establishing of property and boundary lines, public roads, or trails, original cemetery or town sites, and their subdivisions, has been made by a licensed surveyor, he shall file with the recorder of the county in which such survey or any portion thereof lies, a record of survey. Such record shall be made in a good draftsman-like manner, on one or more sheets of firm paper of the uniform size of twenty-one by thirty inches. This record of survey shall be either an original plat or a copy thereof, and must contain all the data necessary to enable any competent practical surveyor to retrace the survey. The record of survey must show: All permanent monuments set, describing their size, kind, and location with reference to the corners which they are intended to perpetuate, all bearing or witness trees marked in the

field; complete outlines of the several tracts or parcels of land surveyed within courses, and lengths of boundary lines; the angles, as measured by Vernier readings, which the lines of blocks or lots, if the record relate to an original town-site survey, make with each other and with the center lines of adjacent streets, alleys, roads, or lanes; the variations of the magnetic needle with which old lines have been retraced; the scale of the map; the date of survey; a proper connection with one or more points of an original or larger tract of land, and the name of the same; the name of the grant or grants, or of the townships and ranges within which the survey is located; the signature and seal of the surveyor; provided, that nothing in this section shall require a record to be made of surveys of a preliminary nature where no monuments or corners are established; provided, further, that if the survey can be as well described in writing, or by a small diagram, or by both, the surveyor shall file with said recorder a record of such a survey, either in writing or by diagram, or by both writing and diagram. Such record shall be on one or more sheets of writing paper, drawing paper, or cloth, of a uniform size of eight by twelve and one half inches, and shall contain all the data as required on the larger record as described above; provided further, that if the survey relate to the retracing of lines of lots or tracts of land of which a map or plat is already on file in said recorder's office, and no changes are made in dimensions or angles, by the resurvey, from those given on said map or plat, the surveyor shall not be required to file a record of such a survey. [Amendment, Stats. 1903, 267.]

§ 12. The record of surveys thus filed with the county recorder of any county must be by him pasted into a stub-book, provided for that purpose, and he must keep a proper index of such records, by name of owner, by name of surveyor, by name of grant, city, or town, and by United States subdivisions; and he shall make no charge for filing and indexing such records of surveys.

§ 13. Upon the failure of any licensed surveyor to comply with the requirements of this act and the furnishing of satisfactory proofs of such fact, the state surveyor-general must revoke his license, and no other license shall be issued to him within one year from such revocation. A violation of section eleven of this act shall be a misdemeanor, and any person convicted of such violation shall be punished by a fine not to exceed more than one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

§ 14. In case said board shall refuse to meet and examine applicants for licenses as in this act provided, and issue to such applicants the certificate or certificates mentioned in this act, if such person be a fit and competent person to receive the same, they may be compelled to do so by mandamus; and if upon the hearing of such mandamus it appears that they have wilfully and wrongfully refused to examine any applicant, or to issue him a certificate when he is entitled to the same, such board so refusing or failing shall be, jointly and severally, liable for all cost of said mandamus proceeding, including attorney's fee of five hundred dollars, and shall be so jointly and severally liable to any person aggrieved by such refusal, in the sum of five hundred dollars, as fixed, settled, and liquidated damages, which may be recovered in any court in this state, and the judgment (if it be for plaintiff) in mandamus shall

be prima facie evidence of such injury and damage in any action which may be brought to recover damages under the provisions of this act.

§ 15. All that part of the Code of Civil Procedure of this state relating to mandamus is hereby made applicable to the provisions of this act; and all proceedings in mandamus under this act shall be in accordance therewith.

§ 16. This act shall take effect on the first day of July, eighteen hundred and ninety-one.

Ward vs. Crowell, 142 Cal. 587, 588, 76 Pac. Rep. 491.

LARCENY—REAL PROPERTY.

To more fully define the crime of larceny.

(Stats. 1871-2, 282, ch. CCXVIII.)

§ 1. Every person who shall convert any manner of real estate, of the value of fifty dollars and upwards, into personal property, by severing the same from the realty of another, with felonious intent to and shall so steal, take, and carry away the same, shall be deemed guilty of grand larceny, and upon conviction thereof, shall be punishable by imprisonment in the state prison for any term not less than one year nor more than fourteen years.

§ 2. Every person who shall convert any manner of real estate, of the value of under fifty dollars, into personal property, by severing the same from the realty of another, with felonious intent to and shall so steal, take, and carry away the same, shall be deemed guilty of petit larceny, and, upon conviction thereof, shall be punishable by imprisonment in the county jail for a period not more than one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment.

The foregoing statute was approved March 16, 1872. See **KERR'S CYC. PEN. CODE** § 495, which was enacted February 14, 1872, but went into effect January 1, 1873. See next following statute.—People vs. Opie, 123 Cal. 294, 295, 55 Pac. Rep. 989.

LARCENY—FROM MINES.

Supplementary to an act entitled "An act concerning crimes and punishments," passed April sixteenth, eighteen hundred and fifty.

(Stats. 1871-2, 435, ch. CCCXXII.)

§ 1. Every person who shall feloniously steal, take, and carry away, or attempt to take, steal, and carry from any mining claim, tunnel, sluice, undercurrent, riffle-box, or sulphurate machine, any gold dust, amalgam, or quicksilver, the property of another, shall be deemed guilty of grand larceny, and upon conviction thereof, shall be punished by imprisonment in the state prison for any term of not less than one year nor more than fourteen years.

People vs. Salvador, 71 Cal. 15, 16, 11 Pac. Rep. 801; People vs. Opie, 123 Cal. 294, 295, 55 Pac. Rep. 989.

LAWS OF CALIFORNIA.

See tit. Index to Laws.

LAW LIBRARIES.

To establish law libraries.

(Stats. 1891, 430, ch. CCXXV; amended 1895, 46, ch. XLI.)

§ 1. On the commencement in, or removal to, the superior court of any county in this state of any civil action, proceeding, or appeal, on filing the first

papers therein, the party instituting such proceeding, or filing the said first papers, shall pay to the clerk of said court the sum of one dollar as costs, for a fund which shall be designated as the "Law Library Fund," to be expended in the purchase of law books and periodicals, and in the establishment and maintenance of a law library at the county seat of said county, which law library shall be governed and controlled, and said fund be expended by the board of trustees hereinafter provided.

§ 2. All moneys collected as hereinbefore provided shall be paid by said clerk into the hands of the treasurer of his county, who shall keep the same separate and apart in the "Law Library Fund," and shall be drawn therefrom as hereinafter provided, but only to be used and applied to the purposes herein authorized.

§ 3. Any law library established under the provisions of this act shall be governed and managed by the "Board of Law Library Trustees" hereinafter provided.

§ 4. There shall be in every county of this state a board of law library trustees, consisting of five members, to be constituted as follows: In every county where there are only three superior judges, the said judges shall be ex officio such library trustees, the president of the board of supervisors shall be ex officio such a trustee; and the board of supervisors shall appoint a member of the bar of the county to act as such trustee; such appointment shall be made at the first meeting of the board of supervisors after this act is approved, and the appointee shall serve until the first meeting of the board of supervisors in the succeeding January; and the said board shall, at any such meeting in each succeeding January, appoint such a trustee to serve for the term of one year. In every county where there are more than three superior judges, the judges of such county shall elect three of their number to serve as such trustees, and otherwise said board shall be as above provided. In all counties where there are less than three superior judges, the board shall be constituted as above provided, save that the board of supervisors shall appoint sufficient members of the bar to make up the requisite number of trustees.

§ 5. The office of trustee shall be honorary, without salary or other compensation.

§ 6. Such board of trustees, by a majority vote of all their members, to be recorded in the minutes, with the ayes and noes at length, shall have power:

First.—To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of such library, and all property belonging thereto, or that may be loaned, devised, bequeathed or donated to the same.

Second.—To remove any trustee who may neglect to attend the meetings of the board of trustees, or who may absent himself from such meetings, and fill all vacancies that may from any cause occur in the board.

Third.—To define the powers and prescribe the duties of any and all officers, determine the number, and elect all necessary subordinate officers and assistants, and at their pleasure remove any officer or assistant.

Fourth.—To purchase books, journals, publications, and other personal property.

Fifth.—To order the drawing and payment, upon properly authenticated vouchers, duly certified by the president and secretary, of money from out of the law library fund, for any liability or expenditure herein authorized, and generally to do all that may be necessary to carry into effect the provisions of this act.

Sixth.—To fix the salaries of the librarian, secretary and other subordinate officers and assistants.

Seventh.—To contract with any existing law library association to make use of its library for the purposes of a public law library, under proper rules and regulations to be prescribed by the board of trustees, either by lease or such other contract as may best carry the purposes of this act into effect.

§ 7. The orders and demands of the trustees of any such public law library, when duly made and authenticated as above provided, shall be verified and audited by the auditing officer, and paid by the treasurer of such county out of the library fund properly belonging thereto, of which full entry and record shall be kept as in other cases.

§ 8. The said board of trustees, on or before the first Monday in December of each year, shall make an annual report to the board of supervisors of their county, giving the condition of their trust, with full statements of all their property and money received, whence derived, how used and expended, the number of books, periodicals, and other publications on hand; the number added by purchase, gift, or otherwise during the year; the number lost or missing, and such other information as might be of interest. A financial report, showing all receipts and disbursements of money, shall also at the same time be made by the secretary of the board of trustees, duly verified by his oath.

§ 9. The board of supervisors of any such county shall provide a library room for the use of such library, whenever such room may be demanded by such board of trustees.

§ 10. The said board of trustees shall meet the first Tuesday of each month, and at such other times as they may appoint, at a place to be appointed for that purpose; and a majority of all their number shall constitute a quorum for business. They shall appoint one of their number as president of their board. They shall elect a secretary, who shall keep a full statement and account of all property, money, receipts and expenditures, and a record and full minutes, in writing, of all their proceedings. They may appoint a librarian. The secretary may certify to such proceedings, or any part or portion thereof, under his hand, verified by an official seal, adopted and provided by the trustees for that purpose.

§ 11. Said library shall be free to the judiciary and county officials of said county, without payment of dues, and free to all inhabitants of said county, upon payment of such dues as may be ordained by said board of trustees, and under such rules and regulations as may be by them provided.

§ 12. The secretary of state is hereby authorized and directed to transmit to the county clerk of each county of the state, for the use of said library, a

copy of each and every publication which may hereafter be made by this state, and especially a copy of each report of the decisions of the supreme court, and of the statutes of this state; and also a copy of all such reports and statutes heretofore published.

§ 13. The librarian of the supreme court library is hereby authorized and directed to distribute among the law libraries herein provided for such duplicates of books as may be in state library, and not needed for its own purpose.

§ 14. All acts and parts of acts in conflict with this act are hereby repealed; provided, however, that wherever a law library, and a board of trustees to govern the same, is already provided by law in any county, or city and county, in this state, this act shall not affect such library or board of trustees, or be considered a repeal of any legislation under which such library is established and now governed; and provided further, that it shall be discretionary with the board of supervisors of any county to provide by ordinance for the application of the provisions of this act to such county. And the moneys herein provided to be collected shall not be collected in addition to moneys already by law provided to be collected for law libraries in any county, or city and county, in this state.

§ 14½. Whenever the board of supervisors in any county in this state which shall have adopted the provisions of this act and have established a law library, desire to discontinue such law library, they shall by ordinance so declare their intentions so to do, and shall provide in such ordinance that the books already in the library shall be transferred to and kept in the chambers of the judges of the superior court of such county; and all moneys on hand in the library fund of such county shall be by the same ordinance transferred to the school fund of such county, and the office of the board of trustees of such law library shall be abolished. After such an ordinance shall take effect the county clerk of such county shall not collect the fees provided for in section one of said act. [New section added, Stats. 1895, 46.]

§ 15. This act shall take effect from and after its passage.

The San Francisco Law Library is provided for by Stats. 1869-70, 235, as amended 1880, 194; and see tit. Libraries, post.

LEASES.

See tit. State Officers.

LEGAL TENDER—NOTES.

In relation to the currency of the United States.

(Stats. 1880, 8, ch. XIV.)

§ 1. All legal-tender notes heretofore issued, or which may hereafter be issued, by the government of the United States of America, as legal-tender notes, shall be received at par in payment for all taxes due or to become due to this state, or to any county or municipal corporation thereof, and such notes shall be a legal tender for all debts, dues, and demands between citizens of this state.

§ 2. All acts, and the provisions of any act or parts of acts, conflicting with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

Perine C. & P. Co. vs. Quackenbush, 104 Cal. 639, 38 Pac. Rep. 533.

As to what money constitutes a legal tender, see **KERR'S CYC. CIV. CODE**, § 1478 and note.

LEGISLATURE OF CALIFORNIA.

To divide the state into legislative districts and to provide for the election of senators and assemblymen.

(Stats. 1901, 535, ch. CLXIV.)

§ 1. The state is hereby divided into forty senatorial districts, respectively numbered and constituted as follows:

1. The counties of Del Norte, Humboldt, Trinity and Tehama shall constitute the first senatorial district.

2. The counties of Modoc, Lassen, Siskiyou and Shasta shall constitute the second senatorial district.

3. The counties of Plumas, Sierra, Nevada and Placer shall constitute the third senatorial district.

4. The counties of Mendocino, Glenn, Colusa and Lake shall constitute the fourth senatorial district.

5. The counties of Napa and Solano shall constitute the fifth senatorial district.

6. The counties of Butte, Yuba, Sutter and Yolo shall constitute the sixth senatorial district.

7. The county of Sacramento shall constitute the seventh senatorial district.

8. The county of Sonoma shall constitute the eighth senatorial district.

9. The counties of Marin and Contra Costa shall constitute the ninth senatorial district.

10. The counties of El Dorado, Amador, Calaveras, Alpine and Mono shall constitute the tenth senatorial district.

11. The county of San Joaquin shall constitute the eleventh senatorial district.

12. The counties of Tuolumne, Mariposa, Madera, Stanislaus and Merced shall constitute the twelfth senatorial district.

13. All that portion of the county of Alameda comprising the townships of Washington, Murray and Eden shall constitute the thirteenth senatorial district.

14. All that portion of the county of Alameda comprising the township of Alameda, all that portion of Brooklyn Township lying outside of the city of Oakland, and all that portion of Brooklyn Township lying within the city of Oakland lying south of East Fourteenth Street shall constitute the fourteenth senatorial district.

15. All that portion of Alameda county comprising all that portion of Brooklyn Township not contained in the fourteenth senatorial district as set forth in this act, and all that further portion of the county of Alameda bounded as follows: Commencing at a point on the western boundary of Brooklyn Township at a point where said boundary line is intersected by Thirteenth Street, thence along the center of the following named streets: Thirteenth to

Jefferson, Jefferson to Fifteenth, Fifteenth to Market, Market to San Pablo Avenue, San Pablo Avenue to Adeline, Adeline to Parker, Parker to Grant, Grant to the northerly boundary line of the city of Berkeley; thence easterly along said northerly boundary line of the city of Berkeley to the boundary line of the county of Alameda; thence easterly and southerly along said boundary line of the county of Alameda to a point where intersected by the westerly boundary line of Brooklyn Township; thence southerly and westerly along said boundary line of Brooklyn Township to the point of beginning shall constitute the fifteenth senatorial district.

16. All that portion of the county of Alameda bounded as follows: Commencing at a point on the westerly boundary line of Brooklyn Township where intersected by Thirteenth Street extended; thence along the center of the following streets: Thirteenth to Jefferson, Jefferson to Fifteenth, Fifteenth to Market, Market to San Pablo Avenue, San Pablo Avenue to Adeline, Adeline to Parker, Parker to Grant, Grant to the northerly boundary line of the city of Berkeley; thence easterly along said northerly boundary line of the city of Berkeley to the intersection of the northerly boundary line of the county of Alameda; thence northerly and westerly along said northerly boundary line of Alameda County to the intersection of the westerly boundary line of the county of Alameda; thence southerly along said westerly boundary line of Alameda County to the southerly boundary line of the city of Oakland, in Oakland Creek; thence easterly along southerly boundary line of the city of Oakland, in said creek, to the point of intersection of the boundary line between the sixth and seventh wards of the city of Oakland; thence northerly along said line to the point of beginning shall constitute the sixteenth senatorial district.

17. All that portion of the city and county of San Francisco comprised within the boundaries of the thirty-first and thirty-sixth assembly districts, as fixed and described in this act, shall constitute the seventeenth senatorial district.

18. All that portion of the city and county of San Francisco comprised within the boundaries of the thirty-first and thirty-sixth assembly districts, as fixed and described in this act, shall constitute the eighteenth senatorial district.

19. All that portion of the city and county of San Francisco comprised within the boundaries of the thirty-second and thirty-fifth assembly districts, as fixed and described in this act, shall constitute the nineteenth senatorial district.

20. All that portion of the city and county of San Francisco comprised within the boundaries of the thirty-third and thirty-fourth assembly districts, as fixed and described in this act, shall constitute the twentieth senatorial district.

21. All that portion of the city and county of San Francisco comprised within the boundaries of the thirty-seventh and thirty-eighth assembly districts, as fixed and described in this act, shall constitute the twenty-first senatorial district.

22. All that portion of the city and county of San Francisco comprised within the boundaries of the thirty-ninth and fortieth assembly districts, as fixed and described in this act, shall constitute the twenty-second senatorial district.

23. All that portion of the city and county of San Francisco comprised within the boundaries of the thirtieth and forty-second assembly districts, as fixed and described in this act, shall constitute the twenty-third senatorial district.

24. All that portion of the city and county of San Francisco comprised within

the boundaries of the forty-third and forty-fourth assembly districts, as fixed and described in this act, shall constitute the twenty-fourth senatorial district.

25. All that portion of the city and county of San Francisco comprised within the boundaries of the forty-first and forty-fifth assembly districts, as fixed and described in this act, shall constitute the twenty-fifth senatorial district.

26. The county of Fresno shall constitute the twenty-sixth senatorial district.

27. All that portion of the county of Santa Clara not included in the twenty-eighth senatorial district shall constitute the twenty-seventh senatorial district.

28. All that portion of the county of Santa Clara embraced in the precincts of Agnews, Alviso, Berryessa, Cupertino, Hester, Jefferson, Mountain View number one, Mountain View number two, Mayfield number one, Mayfield number two, Milpitas, Orchard, Palo Alto, Saratoga, University, and the first, second, and fourth wards of the city of San Jose, shall constitute the twenty-eighth senatorial district.

29. The counties of San Mateo and Santa Cruz shall constitute the twenty-ninth senatorial district.

30. The counties of San Bernardino and Inyo shall constitute the thirtieth senatorial district.

31. The counties of Monterey, San Benito, and San Luis Obispo shall constitute the thirty-first senatorial district.

32. The counties of Kern, Tulare, and Kings shall constitute the thirty-second senatorial district.

33. The counties of Santa Barbara and Ventura shall constitute the thirty-third senatorial district.

34. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred to wit: Catalina, San Pedro numbers one, two, and three, Wilmington, Compton numbers one and two, Florence, Redondo city, Wiseburn, Gardena, Hyde Park, Ballona, Santa Monica city numbers one, two and three, San Vicente, National Military Home numbers one, two, three, four and five, Monte Vista, Cahuenga, and Los Angeles city precincts numbered seventy, seventy-one, seventy-two a, seventy-two b, seventy-three a, seventy-three b, seventy-four, seventy-five, seventy-six, seventy-seven, Calabasas, Lankershim, Chatsworth, San Fernando, Acton, Newhall, La Liebre, Del Sur, Lancaster, Palmdale, Llano, La Cañada, Burbank, and Glendale shall constitute the thirty-fourth senatorial district.

35. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred to wit: Pomona numbers one, two, three, four and five, Claremont, Lordsburg, Spadra, Glendora, Azusa, Azusa city, Rowland, Covina, El Monte, Monrovia, Duarte, Rivera, Los Nietos, Whittier, East Whittier, North Pasadena numbers one and two, Lamanda, Sierra Madre, San Gabriel, Alhambra, Fruitland, Downey, numbers one and two, Norwalk, Artesia, Clearwater, Cerritos, Long Beach city numbers one and two, and Terminal shall constitute the thirty-fifth senatorial district.

36. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred to wit: Los Angeles city numbers fifty-seven a, fifty-seven b, fifty-eight a, fifty-eight b, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four a, sixty-four b, sixty-five, sixty-six, sixty-seven, sixty-eight, one, two, three a, three b, four, five, six, Garvanza,

Pasadena numbers one, two, three, four, five, six, seven and eight and South Pasadena shall constitute the thirty-sixth senatorial district.

37. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred to wit: Los Angeles city numbers seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, sixty-nine, twenty-eight, twenty-nine, thirty, thirty-three, thirty-four a, and thirty-four b, shall constitute the thirty-seventh senatorial district.

38. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Los Angeles city numbers thirty-five a, thirty-five b, thirty-six, thirty-two, thirty-one, thirty-seven, thirty-eight a, thirty-eight b, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four a, forty-four b, forty-five a, forty-five b, forty-six, forty-seven, forty-eight a, forty-eight b, forty-nine a, forty-nine b, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five and fifty-six shall constitute the thirty-eighth senatorial district.

39. The counties of Orange and Riverside shall constitute the thirty-ninth senatorial district.

40. The county of San Diego shall constitute the fortieth senatorial district.

§ 2. The state is hereby divided into eighty assembly districts, respectively numbered and constituted as follows:

1. The counties of Del Norte, Siskiyou, and Trinity shall constitute the first assembly district.

2. All that portion of the county of Humboldt, comprising the townships of Orleans, Klamath, Trinidad, Mad River, Union, Eureka, and Bucksport shall constitute the second assembly district.

3. All that portion of the county of Humboldt not embraced in the second district shall constitute the third assembly district.

4. The counties of Shasta, Modoc, and Lassen shall constitute the fourth assembly district.

5. The counties of Tehama, Plumas, and Sierra shall constitute the fifth assembly district.

6. The county of Mendocino shall constitute the sixth assembly district.

7. The county of Butte shall constitute the seventh assembly district.

8. The counties of Yuba and Sutter shall constitute the eighth assembly district.

9. The county of Nevada shall constitute the ninth assembly district.

10. The counties of Placer and El Dorado shall constitute the tenth assembly district.

11. The counties of Amador, Calaveras, Alpine, and Mono shall constitute the eleventh assembly district.

12. The counties of Glenn, Colusa, and Lake shall constitute the twelfth assembly district.

13. All that portion of the county of Sonoma comprising the townships of Analy, Bodega, Mendocino, Ocean, Petaluma, Redwood, Salt Point, and Vallejo shall constitute the thirteenth assembly district.

14. All that portion of the county of Sonoma not included in the thirteenth district shall constitute the fourteenth assembly district.

15. The county of Napa shall constitute the fifteenth assembly district.

16. The county of Yolo shall constitute the sixteenth assembly district.

17. All that portion of the county of Sacramento composed of that part of the city of Sacramento lying north of the center of K Street of said city shall constitute the seventeenth assembly district.

18. All that portion of the county of Sacramento composed of that part of the city of Sacramento lying south of the center of K Street of said city shall constitute the eighteenth assembly district.

19. All that portion of the county of Sacramento not included in the seventeenth and eighteenth districts shall constitute the nineteenth assembly district.

20. The county of Solano shall constitute the twentieth assembly district.

21. The county of Marin shall constitute the twenty-first assembly district.

22. The county of Contra Costa shall constitute the twenty-second assembly district.

23. All that portion of the county of San Joaquin comprising the city of Stockton shall constitute the twenty-third assembly district.

24. All that portion of the county of San Joaquin not included in the twenty-third district shall constitute the twenty-fourth assembly district.

25. The counties of Stanislaus, Merced, and Madera shall constitute the twenty-fifth assembly district.

26. The counties of Tuolumne and Mariposa shall constitute the twenty-sixth assembly district.

27. The counties of Tulare and Inyo shall constitute the twenty-seventh assembly district.

28. All that portion of the city and county of San Francisco bounded as follows: Commencing at the point of intersection where the center of the line of Market Street intersects the Bay of San Francisco, continuing thence along the center of the following named streets: Market to Fourth, Fourth to Folsom, Folsom to Third, Third to Bryant, Bryant to the waters of the Bay of San Francisco, thence along the shore to Market Street, the place of beginning, shall constitute the twenty-eighth assembly district.

29. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Fourth and Market streets, continuing thence along the center of the following named streets: Market to Seventh, Seventh to Mission, Mission to Sixth, Sixth to Bryant, Bryant to Third, Third to Folsom, Folsom to Fourth, Fourth to Market, the place of beginning, shall constitute the twenty-ninth assembly district.

30. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Seventh and Market streets, continuing thence along the center of the following named streets: Market to Tenth, Tenth to Howard, Howard to Eleventh, Eleventh to Bryant, Bryant to Sixth, Sixth to Mission, Mission to Seventh, along Seventh to Market, the place of beginning, shall constitute the thirtieth assembly district.

31. All that portion of the city and county of San Francisco bounded as follows: Commencing at the point of intersection where the center of the line of Bryant Street intersects with the Bay of San Francisco, continuing thence along

the center of the following named streets: Bryant to Eleventh, Eleventh to Howard, Howard to Twentieth, Twentieth to the waters of Bay of San Francisco, thence along the shore to Bryant, the place of beginning, shall constitute the thirty-first assembly district.

32. All that portion of the city and county of San Francisco bounded as follows: Commencing at the point of intersection where the center of the line of Twentieth Street intersects the Bay of San Francisco, continuing thence along the center of the following named streets: Twentieth to Howard, Howard to Army, Army to San Bruno Avenue, thence along San Bruno Avenue and Milliken Street to its intersection with the boundary line dividing the counties of San Francisco and San Mateo, thence along said boundary line to the intersection of the waters of the Bay of San Francisco, thence along the shore of said bay to Twentieth Street, the place of beginning, shall constitute the thirty-second assembly district.

33. All that portion of the city and county of San Francisco bounded as follows: Commencing at a point of intersection of the center of Guerrero and Army streets, continuing thence along the center of the following named streets: Army to San Bruno Avenue, thence along San Bruno Avenue and Milliken Street to its intersection with the boundary line dividing the counties of San Francisco and San Mateo, thence along said boundary line to the intersection of the waters of the Pacific Ocean, thence along the shore of said ocean, northerly to Ocean Avenue, thence along Ocean Avenue to Corbett Avenue, thence along Corbett Avenue to Fowler Avenue, Fowler Avenue to Twenty-eighth Street, Twenty-eighth to Guerrero, along Guerrero to Army, the point of beginning, shall constitute the thirty-third assembly district.

34. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of the center of Guerrero and Army streets, continuing thence along the center of the following named streets: Army to Church, Church to Thirteenth, Thirteenth to Buena Vista Avenue, Buena Vista Avenue to Frederick Street, Frederick to Clayton, Clayton and Ashbury streets to Clarendon Avenue, thence along Clarendon Avenue to Lincoln Avenue, thence along Lincoln Avenue to Clipper Street, Clipper Street to a point where the center of Fowler Avenue, if extended, would intersect the center of Clipper, thence along the center of Fowler Avenue to Twenty-eighth, Twenty-eighth to Guerrero, Guerrero to Army, the place of beginning, shall constitute the thirty-fourth assembly district.

35. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Howard and Seventeenth streets, continuing thence along the center of the following named streets: Seventeenth to Church, Church to Army, Army to Howard, Howard to Seventeenth, the place of beginning, shall constitute the thirty-fifth assembly district.

36. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Market and Polk streets, continuing thence along the center of the following named streets: Polk to Grove, Grove to Octavia, Octavia to Market, Market to Thirteenth, Thirteenth to Church, Church to Seventeenth, Seventeenth to Howard, Howard to Tenth, Tenth to the intersection of Market and Polk, the place of beginning, shall constitute the thirty-sixth assembly district.

37. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Market and Octavia streets, continuing thence along the center of the following named streets: Octavia to Fulton, Fulton to Stanyan, Stanyan to Frederick, Frederick to Buena Vista Avenue, thence along Buena Vista Avenue to Thirteenth, Thirteenth to Market, Market to Octavia, the place of beginning, shall constitute the thirty-seventh assembly district.

38. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Van Ness Avenue and Geary Street, continuing thence along the center of the following named streets: Geary and Point Lobos Avenue to Masonic Avenue, Masonic Avenue to Fulton, Fulton to Octavia, Octavia to Grove, Grove to Van Ness Avenue, Van Ness Avenue to Geary, the place of beginning, shall constitute the thirty-eighth assembly district.

39. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Lyon Street with the waters of the Bay of San Francisco, continuing thence along the center of the following named streets: Lyon to Washington, Washington to Baker, Baker to Geary, Geary and Point Lobos Avenue to Masonic Avenue, Masonic Avenue to Fulton, Fulton to Stanyan, Stanyan to Frederick, Frederick to Clayton, Clayton and Ashbury streets to Clarendon Avenue, thence along Clarendon Avenue to Lincoln Avenue, thence along Lincoln Avenue to Clipper, Clipper to a point where the center of Fowler Avenue, if extended, would intersect the center of Clipper Street, thence along the line of Fowler Avenue to Corbett Avenue, thence along Corbett Avenue to Ocean Avenue, thence along Ocean Avenue to the waters of the Pacific Ocean, thence along the shore of said ocean and the said bay to Lyon Street, the place of beginning, together with the islands known as the Farallon Islands, shall constitute the thirty-ninth assembly district.

40. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Van Ness Avenue and Washington Street, continuing thence along the center of the following named streets: Washington to Baker, Baker to Geary, Geary to Van Ness Avenue, Van Ness Avenue to Washington, the place of beginning, shall constitute the fortieth assembly district.

41. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Jones Street with the waters of the Bay of San Francisco, continuing thence along the center of the following named streets: Jones to Broadway, Broadway to Van Ness Avenue, Van Ness Avenue to Washington, Washington to Lyon, Lyon to the waters of said bay, thence along the shore to Jones Street, the place of beginning, shall constitute the forty-first assembly district.

42. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Market and Polk streets, continuing thence along the center of the following named streets: Polk to Grove, Grove to Van Ness Avenue, Van Ness Avenue to Broadway, Broadway to Hyde, Hyde to Ellis, Ellis to Jones, Jones to Market, Market to Polk, the place of beginning, shall constitute the forty-second assembly district.

43. All that portion of the city and county of San Francisco bounded as

follows: Commencing at the intersection of Market and Jones streets, continuing thence along the center of the following named streets: Jones to Ellis, Ellis to Hyde, Hyde to Broadway, Broadway to Mason, Mason to Market, Market to Jones, the place of beginning, shall constitute the forty-third assembly district.

44. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Market and Mason streets, continuing thence along the center of the following named streets: Mason to Broadway, Broadway to the waters of the Bay of San Francisco, thence along the shore of said bay to Market Street, thence along Market Street to Mason, the place of beginning, shall constitute the forty-fourth assembly district.

45. All that portion of the city and county of San Francisco bounded as follows: Commencing at the intersection of Jones Street with the waters of the Bay of San Francisco, continuing thence along the center of the following named streets: Jones to Broadway, Broadway to the waters of the Bay of San Francisco, thence along the shore of said bay to Jones Street, the place of beginning, together with all the waters of the Bay of San Francisco and the islands contained therein, situate within the boundaries of the city and county of San Francisco, shall constitute the forty-fifth assembly district.

46. All that portion of the county of Alameda comprising the townships of Murray, Washington, and Eden shall constitute the forty-sixth assembly district.

47. All that portion of the county of Alameda comprising the township of Alameda shall constitute the forty-seventh assembly district.

48. All that portion of the county of Alameda comprising that portion of the city of Oakland bounded as follows: Commencing at a point on the westerly line of Brooklyn Township, where the same is intersected by Thirteenth Street extended, continuing thence along the center of the following named streets: Thirteenth to Jefferson, Jefferson to Fifteenth, Fifteenth to Market, Market to Twelfth, Twelfth to Adeline, Adeline to the shore line of Oakland Creek, and thence extended to the boundary line of said city of Oakland in said creek, thence along said boundary line in said creek to the intersection of said boundary line with the boundary line between the sixth and seventh wards of said city of Oakland, and thence along said last-mentioned boundary line to the place of beginning, shall constitute the forty-eighth assembly district.

49. All that portion of the county of Alameda comprising all that portion of the city of Oakland bounded as follows: Commencing at a point on the southerly boundary line of the city of Oakland in Oakland Creek, where said boundary line is intersected by Adeline Street extended, and thence along the line of the center of the following named streets: Adeline to Twelfth, Twelfth to Market, Market to San Pablo Avenue, San Pablo Avenue to Adeline Street, Adeline Street to the point of intersection of Adeline Street with the northerly boundary line of the town of Emeryville, thence by runs and courses westerly and northerly in the direction of and following the line of the boundary of the town of Emeryville to the point of intersection of the said boundary line with the westerly boundary line of the county of Alameda, thence southerly along said westerly boundary line of the county of Alameda to the intersection of the southerly boundary line of the city of Oakland, thence easterly along

said last-mentioned line to the point of beginning, shall constitute the forty-ninth assembly district.

50. All that portion of the county of Alameda comprising all that portion of the city of Oakland, bounded as follows: Commencing at a point on the westerly line of Brooklyn Township where the same is intersected by Thirteenth Street extended, and thence along the center of the following named streets: Thirteenth to Jefferson, Jefferson to Fifteenth, Fifteenth to Market, Market to San Pablo Avenue, San Pablo Avenue to Adeline Street, Adeline Street to a point where the same crosses Temescal Creek, thence easterly by meanders to a point where the same is crossed by Shattuck Avenue, thence southerly to Forty-fifth Street, Forty-fifth to Broadway, thence northerly along Broadway to the boundary line of the city of Oakland, thence southerly and easterly by meanders along said boundary line to the point of intersection with Brooklyn Township, thence southerly and westerly by meanders along the westerly boundary line of Brooklyn Township to the point of beginning, shall constitute the fiftieth assembly district.

51. All that portion of the county of Alameda comprising the township of Brooklyn shall constitute the fifty-first assembly district.

52. All that portion of Alameda County bounded as follows: Commencing at a point where the southerly line of the town of Berkeley intersects the westerly boundary line of the county of Alameda, thence easterly along said southerly line of the city of Berkeley to the easterly boundary line of the town of Emeryville, thence southerly and along the boundary line between the town of Emeryville and the city of Oakland to the point where Adeline Street intersects said boundary line, thence easterly along the line of Temescal Creek to Shattuck Avenue, thence southerly along the center line of Shattuck Avenue to Forty-fifth Street, thence easterly along the center line of Forty-fifth Street to Broadway, thence along the center line of Broadway to its intersection with the boundary line of the city of Oakland, thence southerly and easterly along said boundary line to the point of intersection with the westerly boundary line of Brooklyn Township, thence in a general direction northerly by runs and courses along the boundary line of Brooklyn Township to the point where it intersects the boundary line of Alameda County, thence westerly by runs and courses along the said boundary line of Alameda County, and southerly along said westerly boundary line of Alameda County to the point of beginning, shall constitute the fifty-second assembly district.

53. The county of San Mateo shall constitute the fifty-third assembly district.

54. The county of Santa Cruz shall constitute the fifty-fourth assembly district.

55. All that portion of the county of Santa Clara comprised in the precincts of Alma, Almaden, Berryessa, Burnett, East San Jose, Evergreen, Gilroy number one, Gilroy number two, Guadalupe, Highland, Las Animas, Llagas, Morgan Hill, Mount Hamilton, Pioneer, Rucker, San Felipe, Solis, Union, Uvas, Vineland, Los Gatos number one, Los Gatos number two, Wrights, San Ysidro, and the third ward of the city of San Jose, shall constitute the fifty-fifth assembly district.

56. All that portion of the county of Santa Clara comprised in the pre-

cinets of Alameda, Crandallville, University, Gardner, Cottage Grove, Franklin, Oak Grove, Robertsville, Willow Glen, Campbell, Moreland, Santa Clara number one, Santa Clara number three, Jefferson, Cupertino, Saratoga, and the fourth ward of San Jose, shall constitute the fifty-sixth assembly district.

57. All that portion of the county of Santa Clara not included in the fifty-fifth and fifty-sixth districts shall constitute the fifty-seventh assembly district.

58. The county of San Benito shall constitute the fifty-eighth assembly district.

59. The county of Monterey shall constitute the fifty-ninth assembly district.

60. All that portion of the county of Fresno comprising the precincts of Black Mountain, Bryant, Cantua, Crescent, Chicago, Central Colony, Collis, Firebaugh, Fresno Colony, Fresno number five, Fresno number six, Fresno number seven, Fresno number eight, Fresno number nine, Fresno number ten, Fowler number one, Fowler number two, Gill, Huron, Kingston, Kingsburg, Liberty, Lake, Lewis Creek, Madison, New Hope, Oleander, Panoche, Pleasant Valley, Sycamore, Selma number one, Selma number two, Terry, White's Bridge, Warthan, West Park, Washington Colony, and Wild Flower shall constitute the sixtieth assembly district.

61. All that portion of the county of Fresno not included in the sixtieth district shall constitute the sixty-first assembly district.

62. The county of Kings shall constitute the sixty-second assembly district.

63. The county of San Luis Obispo shall constitute the sixty-third assembly district.

64. The county of Santa Barbara shall constitute the sixty-fourth assembly district.

65. The county of Ventura shall constitute the sixty-fifth assembly district.

66. The county of Kern shall constitute the sixty-sixth assembly district.

67. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: San Vicente, Calabasas, Chatsworth, San Fernando, Lankershim, Burbank, Glendale, Garvanza, La Cañada, Newhall, Acton, La Liebre, Del Sur, Lancaster, Palmdale, Llano, Pasadena numbers one, two, three, four, five, six, seven, and eight shall constitute the sixty-seventh assembly district.

68. All that part of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Pomona city numbers one, two, three, four, and five, Claremont, Lordsburg, Spadra, Glendora, Azusa city, Azusa, Covina, Rowland, El Monte, Monrovia, Duarte, Rivera, Los Nietos, Whittier, and East Whittier shall constitute the sixty-eighth assembly district.

69. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Los Angeles city numbers sixty-four a, sixty-four b, sixty-five, sixty-six, sixty-seven, and sixty-eight, Alhambra, San Gabriel, South Pasadena, Sierra Madre, Lamanda, North Pasadena numbers one and two, Fruitland, Downey numbers one and two, Norwalk, Artesia, Clearwater, Cerritos, Long Beach city num-

bers one and two, and Terminal shall constitute the sixty-ninth assembly district.

70. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Catalina, Santa Monica city numbers one, two, and three, Ballona, Hyde Park, Gardena, Wiseburn, Redondo city, Wilmington, San Pedro numbers one, two, and three, Compton numbers one and two, Florence, Los Angeles city numbers seventy-two a, seventy-two b, seventy-three a, seventy-three b, seventy-four, seventy-five, seventy-six and seventy-seven shall constitute the seventieth assembly district.

71. All that portion of the county of Los Angeles included in and comprising the following election precincts and parts of precincts of nineteen hundred, to wit: Los Angeles city numbers thirty-seven, thirty-eight a, thirty-eight b, thirty-nine, forty, forty-one, forty-five a, forty-five b, forty-six, all that portion of numbers fifty and fifty-one between Alameda Street and the center of Los Angeles River, same being north of Ninth Street, [numbers] fifty-six, fifty-five, and fifty-four shall constitute the seventy-first assembly district.

72. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Los Angeles city numbers forty-four a, forty-four b, forty-three, forty-two, thirty-one, thirty-two, thirty-six, thirty-five a, thirty-five b, seventy, and seventy-one shall constitute the seventy-second assembly district.

73. All that portion of the county of Los Angeles included in and comprising the following election precincts and parts of election precincts of nineteen hundred, to wit: Los Angeles city numbers forty-seven, forty-eight a, forty-eight b, forty-nine a, forty-nine b, all that part of fifty and fifty-one between Alameda Street and Central Avenue, Third and Ninth streets, [numbers] fifty-two, fifty-three, twenty-eight, twenty-nine, thirty, thirty-three, thirty-four a, thirty-four b, shall constitute the seventy-third assembly district.

74. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Los Angeles city numbers one, two, three a, three b, four, five, six, fifty-seven a, fifty-seven b, fifty-eight a, fifty-eight b, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, seven, eight, Cahuenga, Monte Vista, National Military Home numbers one, two, three, four, and five shall constitute the seventy-fourth assembly district.

75. All that portion of the county of Los Angeles included in and comprising the following election precincts of nineteen hundred, to wit: Los Angeles city numbers nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, and sixty-nine shall constitute the seventy-fifth assembly district.

76. The county of San Bernardino shall constitute the seventy-sixth assembly district.

77. The county of Orange shall constitute the seventy-seventh assembly district.

78. The county of Riverside shall constitute the seventy-eighth assembly district.

79. All that portion of the county of San Diego included within the corporate limits of the city of San Diego shall constitute the seventy-ninth assembly district.

80. All that portion of the county of San Diego not included in the seventy-ninth district shall constitute the eightieth assembly district.

§ 3. At the general election in the year nineteen hundred and two, and every four years thereafter, a senator shall be elected in each even-numbered senatorial district constituted by section one of this act. At the general election in the year nineteen hundred and four, and every four years thereafter, a senator shall be elected in each odd-numbered senatorial district constituted by section one of this act.

§ 4. At the general election in the year nineteen hundred and two, and every two years thereafter, a member of the assembly shall be elected in each of the assembly districts constituted by section two of this act.

§ 5. Neither boards of supervisors, municipal officers, nor any other officer or officers, shall have the power to alter the boundaries of any township, ward, election precinct, or other local subdivision, of any county, city and county, city, or town, so as to change the boundaries of any senatorial or assembly district as constituted and defined in this act.

§ 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 7. This act shall take effect on the first day of January, nineteen hundred and two.

See Constitution 1879, art. IV, § 6. Also, under Stats. 1883, 58, ch. XXXIV, and 85, ch. XLVII, designating assembly and senatorial districts, see: **Assembly—People vs.**

Pendegast, 96 Cal. 289, 296, 31 Pac. Rep. 103; **Senate—People vs. Pendegast**, supra; and § 42—**McPherson vs. Bartlett**, 65 Cal. 577, 579, 4 Pac. Rep. 582.

LEGISLATIVE DISTRICTS.

See tit. Legislature of California.

LELAND STANFORD JUNIOR UNIVERSITY.

Granting to the trustees of the Leland Stanford Junior University corporate powers and privileges.

(Stats. 1901, 4, ch. VIII.)

§ 1. The trustees of the Leland Stanford Junior University are given the right to exercise corporate powers and privileges, and to that end they may organize and act as a board of trustees, elect such officers of such board as they may deem to be necessary, adopt by-laws, and as such board, and through the officers thereof, they may transact such business, perform such acts and exercise such powers as they in writing may provide may be transacted, performed and exercised by such board.

Such board may adopt a seal which shall read, "Seal of the Leland Stanford Junior University," and such seal, when attached to any document or writing, shall be prima facie evidence that such document or writing was made by and under due authority from such board and from such trustees.

Nothing herein shall be deemed to alter the tenure or limit the powers or obligations of such trustees.

§ 2. This act shall take effect from its passage.

See next following statute and tit. **University of California.**

LELAND STANFORD JUNIOR UNIVERSITY.

Exempting from taxation a portion of the property held in trust for the benefit of the Leland Stanford Junior University.

(Stats. 1901, 4, ch. IX.)

§ 1. The university buildings of the Leland Stanford Junior University, situate in the county of Santa Clara, state of California, used for university purposes, and all bonds held or that may be held by the trustees of such university in trust for the benefit of such university, shall be exempt from taxation; provided, that all other property, real and personal, held in trust for the benefit of such university shall be subject to state, county and municipal taxation; and provided further, that while this act is in force no fees shall be charged residents of this state for tuition at such university, but such tuition shall be entirely free.

§ 2. This act shall take effect from its passage.

LEPROSY FUND.

See tit. **State Funds.**

LEVEE DISTRICTS.

To provide for the formation of levee districts in the various counties of this state, and to provide for the erection of levees, dikes and other works for the purpose of protecting the lands within such districts from overflow and to levy assessments to erect and construct and maintain such levees, dikes and other works and to pay the necessary costs and expenses of maintaining said districts.

(Stats. 1905, 327, ch. CCCX.)

§ 1. Whenever the board of supervisors of any county in this state shall receive a petition signed by a majority of the landowners within any portion of said county, accompanied by a deposit sufficient to cover the cost of publication of all notices required by the first two sections of this act, which said portion of said county shall be specifically described and set out by metes and bounds in said petition, asking that said portion of said county be set apart and erected into a levee district for the purpose of protecting the lands embraced in said portion of said county from overflow from any river, stream or streams, or watercourse, the board of supervisors shall pass a resolution signifying its intention to erect and set apart said portion of said county into a levee district, for the purpose of protecting the lands therein from overflow and describing the exterior boundaries of the district of lands embraced therein and to be assessed to pay the damages, costs and expenses thereof. Such resolution shall also contain a notice to be published, which said notice shall be headed "Notice of intention of the board of supervisors to form a levee district." and shall state the

fact of the passage of such resolution, with the date thereof, the boundaries of the district, and the statement that it is proposed to assess all properties embraced within such proposed levee district for the purpose of paying the damages, costs and expenses of erecting and repairing dikes, levees and other improvements to protect the said lands from overflow, and the necessary expenses of maintaining the said district and refer to the resolution for further particulars. Such notice to be given by the board of supervisors and signed by its clerk.

§ 2. Such notice shall be published for a period of thirty days in a newspaper published and circulated in said county and designated by said board of supervisors.

§ 3. Any person interested, objecting to the formation of such levee district or to the extent of the district of lands to be affected or benefited by erection or repair of such dikes, levees or other improvements to protect the same from overflow, and to be assessed to pay the costs and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the clerk of said board of supervisors, who shall indorse thereon the date of its reception, by him, and at the next regular meeting of said board of supervisors, or at an adjourned meeting, or a special meeting called for that purpose, after the expiration of said ten days lay such objections before said board of supervisors, said board shall then fix a time for hearing of said objections not less than fifteen days thereafter, and direct its clerk to notify each person objecting of such day fixed for hearing, by depositing a notice thereof in the post-office at the county seat of such county, postage prepaid, addressed to such person objecting, which said notice shall be deposited in the post-office not less than ten days before the day set for hearing.

§ 4. At the time specified or to which the hearing may be adjourned, the board of supervisors shall hear the objections urged and pass upon the same. Such board may, in its discretion, sustain, in whole or in part, any or all of the objections made and filed, and may change or alter the boundaries of such district to conform to the needs of the district, and may in its discretion declare such levee district formed as a subdivision of such county, and shall designate such district by name as the "——— Levee District of ——— County."

§ 5. If it shall appear to the satisfaction of the board of supervisors that it is the desire of a majority of the owners of land in such proposed district that the same should be erected into a levee district, and that it is just and proper, they may declare said territory a levee district for the above purposes, and record the same in a book to be kept for that purpose, giving the metes and bounds, and thereafter the board of supervisors shall be deemed to have acquired jurisdiction to purchase or receive by donation, in the name of the district, any real or personal property necessary to properly carry out the purposes of the formation of such district under the same rules as govern the purchase of property in the name of the county; and to do all things necessary for the formation of such district and the erection and repair of dikes, levees and other improvements to protect the lands within such district from overflow.

§ 6. The board of supervisors of such county shall also have power to condemn land for the purposes of erecting dikes, levees, and other improvements

for the purpose of protecting the lands embraced in such district from overflow, and for that purpose all of the provisions of part three, title seven, of the Code of Civil Procedure are hereby made applicable to the exercise of the right of eminent domain for such purposes or for any purpose necessary to the needs of such district when formed. If such district is created all expenses incurred in the formation of the same shall be a charge against such district and shall be paid as other claims against such district.

§ 7. Having acquired jurisdiction as provided in the foregoing sections of this act, the board of supervisors shall immediately appoint three commissioners one of whom shall be an engineer, which said commissioners before entering upon the discharge of their duties shall take an oath to faithfully discharge the same, and said commissioners shall proceed to cause a survey of the contemplated improvements in the way of the erection or repair of levees, dikes, and other works for the benefit of the said district, and shall assess all damages which may be done to any land, owner or persons, by reason of the taking of land, property, or otherwise for the erection, or repair of such levees, dikes, or other works, and shall ascertain the names of all persons who waive, or claim, damages for the same. And in the event that said commissioners shall find it necessary to use any levee, or work of protection, which has heretofore been constructed by private enterprise, the said commissioners shall cause the said levee, or other work of protection, to be measured, or appraised and a value placed thereon, and shall ascertain the name of the owner, or owners, of the said levee, or work of protection, and shall assess the same as damages to the owner, or owners. And the said commissioners shall estimate the total cost for all purposes of erecting, constructing or repairing said levees, dikes or other works, and maintaining the same for one year, including all damages awarded and shall thereupon make a report of the foregoing matters to the board of supervisors. The board of supervisors at the next regular meeting after filing of the report of said commissioners, or at the time when the report was filed (if then in session), must fix a day for hearing the same; and must give notice of the time and place of such hearing by publication at least once each week for at least two successive weeks, before such hearing, in a newspaper published and circulated in the county, to be designated by the board. Said notice shall intelligently describe the proposed route or line upon which said levees, dikes, and other works are to be erected, and the names of the owner of lands, or other property, through which the same runs, if known, and if not known, that fact must be stated. The board must, on the day fixed for the hearing, or to which it may be postponed or continued, hear the evidence offered by parties interested for or against the proposed works, and the damages assessed for the same by said commissioners, and must ascertain, and by order declare the amount of damage awarded each owner where such damages are claimed, and declare the report of said commissioners to be adopted or rejected in whole, or in part. Said report so adopted showing the estimated damages, costs and expenses for the erection or repair, of such dikes, levees, and other works, and the maintaining of the same for one year, shall be the basis for the assessment of the lands within the boundaries of said district for such year, and thereupon such commissioners shall be discharged. And the said board of supervisors shall from year to year thereafter, as may be necessary, appoint three commissioners as hereinbefore provided, whose duties shall be

the same as hereinbefore set out, and who shall report to the board of supervisors the necessary costs and expenses for the erection or repair, of dikes, levees, and other works, and the cost of maintaining the same for that year, to the board of supervisors, and said report shall be acted upon and adopted by said board in the same manner as hereinbefore set out, and the adoption of such report shall in each instance form the basis of the estimate of the board of supervisors of the amount of money required to be raised by assessment of said lands within such district for such year.

§ 8. The commissioners mentioned in this act, other than the engineer, shall receive for their services the sum of five dollars per day while actually employed, and such engineer shall receive such compensation as may be agreed upon between said engineer and the board of supervisors, and the compensation of such commissioners, and all expenses incurred by them shall be considered as an expense of the work of improvements of said district, and shall be chargeable and payable as are other expenses of such district are paid.

§ 9. The county assessor of such county shall on or before the first day of September of each year after the formation of such district, and at such other times as the board of supervisors shall require, furnish said board of supervisors with a detailed statement showing the names of all owners of land within the boundaries of said district, and the assessed valuation of said land and improvements thereon, as shown on the last preceding assessment made by such assessor on the lands within such district. The word land shall be held to include all railroad beds within the district.

§ 10. At the time when by law it is the duty of the board of supervisors of such county to fix the annual tax rate for such county, the said board of supervisors, taking as a basis the last previous report of the commissioners as hereinbefore specified, and adopted by them, for the amount of moneys necessary to be raised in said district for the purposes thereof for that year, and the valuation of the lands and improvements thereon within such district as furnished them by the county assessor, must levy a tax upon all taxable property in such levee district sufficient to raise the amount set forth in the report as made by said commissioners and adopted by said board of supervisors. The rate of taxation shall be ascertained by deducting fifteen per centum for anticipated delinquencies from the aggregate value of the lands and improvements thereon in said district, as shown by the statement prepared and furnished to the said board of supervisors by the assessor as hereinbefore provided, and then dividing the sum necessary to be raised in said levee district by the remainder of such aggregate assessed value as shown in said statement as furnished by said assessor. The taxes so levied shall be computed and entered on the assessment roll by the county auditor, and collected at the same time and in the same manner as state and county taxes; and when collected shall be paid into the county treasury for the use of the said levee district in which said taxes was levied. And all taxes so levied as hereinbefore provided shall be a lien upon the lands and properties in said district in the manner and with the same effect, and collected in the same way as are state and county taxes.

§ 11. All moneys collected from such district for such taxes, and all moneys received from any source for the benefit of such district shall be by the county

treasurer placed in a fund to be called the "——— Levee District Fund;" and all payments of any of the expense of the work of improvements or other expenses of such district shall be made upon warrants drawn by the county auditor upon said fund, and paid by said treasurer, and all claims as well for the land and improvements taken or damages, as for the charges and expenses, shall be paid as are other claims against the county and upon order of the board of supervisors, and the claims shall be itemized in the same manner as are other claims against the county.

§ 12. The board of supervisors of such county shall have the same supervision and the same control, and exercise the same authority, over the affairs and property of such district as are given to the said board of supervisors by law over the property and affairs of the county. No levees, dikes, or other works must be constructed or repaired except on the order of the board of supervisors, and when such repair or construction will exceed the sum of five hundred dollars the same must be repaired or constructed under a contract let after reasonable notice given by the said board of supervisors, by publishing said notice at least once a week for two weeks in a newspaper published and circulated in said county, and designated by said board. All bids shall be sealed; and shall be opened at the time specified in the notice, and the contract awarded to the lowest responsible bidder. The board may, however, reject any and all bids. The contract and bond for its performance must be entered into and approved by the board of supervisors, except, however, in cases of great emergency, by the unanimous consent of the whole board they may proceed at once to replace or repair any and all levees, dikes, or other works of whatever nature, without notice. Prior to the publication of the notice of the letting of any contract for the erection or repair of dikes, levees or other works the board of supervisors must cause to be prepared by a competent engineer, plans, specifications, and working details of such work, which said plans and specifications shall be adopted by the board of supervisors and filed in the office of the clerk of said board, and shall be subject to inspection by any person for at least two weeks prior to the date of the letting of such contract. The board of supervisors must appoint an engineer to superintend the construction, repair or other work to be done under such plans and specifications and no claims shall be allowed for any work done under any contract let under such plans and specifications without a certificate being first filed in the office of the clerk of the board of supervisors signed by said engineer certifying that such work has been completed and constructed according to such plans and specifications, and the terms of the contract; such engineer shall be paid such compensation as may be agreed upon by said board of supervisors and such compensation shall be paid in the same manner as other claims against said district.

§ 13. The board of supervisors shall have power to appoint a superintendent for said district whenever said board of supervisors shall deem such superintendent necessary, to supervise, care for and make necessary repairs of all levees, dikes, and other works of said district under the supervision and direction of said board. The compensation of such superintendent shall not exceed the sum of fifty dollars per month and he shall hold his position subject to the will of said board. Provided, that whenever the said board of supervisors shall deem it necessary the said board shall have power to

employ a competent engineer and an attorney or attorneys at such compensation as may be agreed upon, to perform any and all necessary engineering, and legal work for said district. The compensation of such engineer, attorney or attorneys and such superintendent shall be paid the same as other claims against the said district.

§ 14. Whenever said board of supervisors shall consider that the construction or repair of dikes, levees, or other works of said district along or upon any of the county roads of such county, will be for the mutual benefit of such district and such county, then, in that event, the said board of supervisors shall have power, and may contribute to the expense and cost of such work, such sums of money as they may deem proper on behalf of the county, and such moneys shall be paid out of either the general road fund or the special fund of any road district or in which said work is done, and as a majority of said board of supervisors may determine.

§ 15. If at any time in the opinion of the board of supervisors the expenditure of money is absolutely necessary to the welfare of such levee district, and there is no money in the fund of such district to make such necessary expenditures, or the money in such funds is insufficient to make such necessary expenditure[s], then the board of supervisors may advance such money out of the general fund of the county for such purpose, and as soon as there is sufficient money in the fund of such levee district to pay the amount so advanced, the board of supervisors shall direct the county treasurer to transfer to the general fund of the county from the fund of said levee district a sum sufficient to repay the amount so advanced.

§ 16. This act is not intended to supersede or repeal any other act for the construction or maintenance of ditches, levees, dikes, or works of protection, or for drainage or for reclamation purposes, but is intended as an independent and alternative means of constructing and erecting such ditches, levees, dikes, or other works of protection where most applicable or desirable to the parties interested.

LEVEES—SACRAMENTO COUNTY.

AS TO CONSTRUCTION AND REPAIR OF LEVEES—In *Sacramento County*, see Stats. 1862, 151, ch. CLVIII, amended 1862, 459, ch. CCCXXXVI; 1862, 548, ch. CCCXXV; 1863, 468, ch. CCCXV.

Levee District No. 1, Sacramento County.—See Stats. 1877-8, 853, ch. DLI, amended 1880, 65, 241, ch. CXL.

Levee Districts—Sutter County.—Defining boundaries, etc., *Levee District No. 1*, see Stats. 1873-4, 511, ch. CCCXLIX, amended 1877-8, 914; 1889, 355; 1901, 629.

Defining boundaries, etc., *District No. 2*, see Stats. 1875-6, 391, supplemented and amended 1893, 199; 1895, 236.

Empowering trustees of *District No. 1* to fund debt, issuing bonds therefor, see Stats. 1880, 30.

The fund of *District No. 5* (and other funds) abolished.—Stats. 1893, 6.

Defining boundaries and organizing *District No. 6*, see Stats. 1891, 237.

Funding debt of *District No. 6*, see Stats. 1891, 235.

To define boundaries and provide for government of *District No. 6*, see Stats. 1891, 237.

To organize districts in Yuba, Sutter, and Placer counties, see Stats. 1877-8, 732.

As to levee districts in El Monte Township, Los Angeles County, see Stats. 1873-4, 768, ch. DXXXII.

Bear River District.—See Stats. 1877-8, 732, relating to Yuba, Sutter, and Placer counties.

The general act providing for organization of levee districts to protect against unnavigable streams (Stats. 1891, 30, ch. XLVI) was repealed by amendment to § 4085, Pol Code, Stats. and Amdts. 1893, 111. As to that statute, see *De Baker vs. Batcheller*, 97 Cal. 472, 32 Pac. Rep. 512.

Under section 3489 of the Political Code, as amended by Stats. 1877-8, 62, levee dis-

tricts theretofore formed were authorized to reorganize as therein provided. This applies also to swamp-land and reclamation districts.

See Constitution 1879, art. IV, § 24; also

titls. **County Government Act**, § 25, subd. 41; **Protection Districts; Reclamation Districts; Swamp-Land Districts.**

Also see next following statute, relating to funding of indebtedness.

LEEVE DISTRICTS—INDEBTEDNESS.

To provide for the funding and refunding of the indebtedness of levee and protection districts.

(Stats. 1897, 424, ch. CCLXVI.)

§ 1. The board of directors or trustees of any levee or protection district having an outstanding indebtedness of not less than twenty thousand dollars, evidenced by bonds or warrants of such districts, by a vote of two thirds of all the members thereof, are empowered, if they deem it for the best interest of such district to fund and refund the same, or any part thereof, and issue bonds of such district therefor, in sums of not less than one hundred dollars nor more than one thousand dollars each, having not more than twenty years to run, and bearing a rate of interest not exceeding seven per centum per annum, payable semiannually, which bonds shall be substantially in the following form:

No. ——. (Name of district), in the county of —, state of California, for value received, promises to pay —, or order, at the office of the treasurer of said district, in —, California, on or before the first day of —, 19—, the sum of — dollars, in gold coin of the United States, with interest at the rate of — per centum per annum, payable at the office of said treasurer semiannually, on the first day of — and — in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued by the board of — of said district in conformity with a resolution of said board, dated the — day of —, eighteen hundred and —, and under authority conferred upon said board by the provisions of an act of the legislature of California, entitled “An act to provide for the funding and refunding of the indebtedness of levee and protection districts,” approved (insert date of approval of the act).

In testimony whereof, the said district, by its board of —, has caused this bond to be signed by the chairman of said board, and attested by the auditor of — county, with his seal of office attached, this — day of —, 19—.

_____,
Chairman of said Board.

Attest: —, Auditor of — county.

And the interest coupons shall be in the following form:

The treasurer of (name of district) will pay to the holder hereof, on the — day of —, 1—, at his office in —, — dollars, gold coin, for interest on bond of said district numbered —.

§ 2. Bonds issued under this act shall be numbered consecutively, signed by the chairman of the board of directors, or trustees, as the case may be, and delivered to the auditor of the county in which the levee or protection district is situated, who shall countersign the same and affix thereto his official seal, and shall by him be delivered to the treasurer of the district, who shall deliver to such auditor his receipt therefor, and said treasurer shall stand

charged on his official bond with all bonds delivered to him and the proceeds thereof, and he shall sell the same or exchange them under the direction of the board of directors or trustees of such levee or protection district, on the best available terms, for any legal indebtedness of such district, but in neither case for a less sum than the face value of the bonds and all interest accrued thereon at the date of such sale or exchange; and if any portion of such bonds are sold for money, the proceeds thereof shall be applied exclusively to the payment of liabilities existing against the district at the date last above named. When they are exchanged for bonds or warrants or other legal evidences of district indebtedness, the treasurer shall at once cancel such evidences of indebtedness by indorsing thereon the amount for which they were received, the word "Canceled" and the date of cancellation. He shall keep a record of all bonds sold or exchanged by him, by number, date of sale, amount, date of maturity, the name and post-office address of purchasers, and, if exchanged, what evidence of indebtedness was received therefor, which record shall be open at all times for public inspection. No such bonds shall be sold or exchanged for any indebtedness of the district except by the approval of the board of directors or trustees thereof.

§ 3. The board of directors or trustees shall cause to be assessed and levied each year upon the assessable property of the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds, issued in conformity with the provisions of this act, accruing before the next annual levy, and such proportion of the principal, that at the end of five years the sum raised from such levies shall equal at least twenty per centum of the amount of bonds issued, at the end of nine years at least forty per centum of the amount, and at and before the date of maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund, and shall be used for the payment of bonds and interest coupons, and for no other purpose whatever; and the treasurer shall open and keep in his books a separate and special account thereof, which at all times shall show the exact condition of said bond fund.

§ 4. Whenever there shall be in the bond fund of such district a surplus of five hundred dollars or more, over and above the interest maturing before the next levy, the treasurer shall give notice for two weeks in one or more newspapers of general circulation, printed and published in the county in which such district is situated, stating the amount of such surplus, and that on the day and hour named in such notice, sealed proposals will be received at his office for the surrender of bonds of the district, and shall at the time and place named open the proposals and accept the lowest bid; provided, that no bid shall be accepted for an amount exceeding the par value of such bonds with accrued interest; if bids are not offered at par, or less, sufficient to exhaust the amount on hand applicable to redemption, the treasurer shall publish for the same time and in the same manner a notice that he will redeem a bond or bonds of said district, giving the number or numbers thereof, and that if not presented for redemption within thirty days after the date of the first publication of such notice, the interest thereon will cease, and the amount due thereon will be set aside for the payment of such bond or bonds when-

ever presented. If any such bond be not so presented, interest thereon shall cease, and the amount due thereon shall be set aside as specified in said notice. All redemption of bonds other than those voluntarily surrendered shall be made in the exact order of their issuance, beginning with the lowest or first number.

§ 5. This act shall take effect immediately.

LEWIS AND CLARK EXPOSITION—APPROPRIATION.

Appropriating money to pay the expenses of maintaining an exhibit of the products of the state of California, at the Lewis and Clark exposition to be held in the city of Portland, Oregon, in nineteen hundred and five, and to provide for a commissioner thereof.

(Stats. 1903, 207, ch. CLXXXVII.)

§ 1. The governor of the state of California is hereby appointed a commissioner, to be known as the Lewis and Clark exposition commissioner, and he shall have exclusive charge and control thereof, with power to appoint all necessary persons for the purpose of carrying out the provisions of this act, and the expenditure of all moneys herein appropriated by the state of California for the construction of buildings and maintaining an exhibit of the products of the state of California, at the Lewis and Clark exposition to be held in the city of Portland, state of Oregon, in the year nineteen hundred and five.

§ 2. The governor of the state of California shall receive no compensation for his services, but he shall have the power to employ suitable persons, and upon such terms as he shall deem just and equitable, for the purpose of carrying out the provisions of this act.

§ 3. The sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to meet the expenses of erecting buildings, and collecting and maintaining an exhibit of the products of the state of California at the Lewis and Clark exposition to be held in the city of Portland, state of Oregon, in the year nineteen hundred and five, and the controller is hereby directed to draw his warrant on the general fund from time to time for such portion of twenty thousand dollars, and in favor of such persons, as the governor of the state of California, such commissioner hereinabove referred to, shall direct, and the state treasurer is directed and empowered to pay the same.

§ 4. It shall be the duty of all public institutions in the state of California to assist the said commissioner in every possible way by loaning him such material in their possession as will add to the attractive features of the state exhibit.

§ 5. This act is exempt from the provisions of section six hundred and seventy-two of the Political Code of the state of California.

§ 6. This act shall take effect and be in force from and after July first, nineteen hundred and four.

LEWIS AND CLARK EXPOSITION—APPROPRIATION.

Making an additional appropriation to pay the expenses of maintaining an exhibit of the products of the state of California, at the Lewis and Clark exposition to be held in the city of Portland, Oregon, in nineteen hundred and five.

(Stats. 1905, 3, ch. V.)

§ 1. In addition to the appropriation heretofore made in an act of the legislature entitled "An act appropriating money to pay the expenses of maintaining an exhibit of the products of the state of California, at the Lewis and Clark exposition to be held in the city of Portland, Oregon, nineteen hundred and five, and to provide for a commissioner thereof," approved March eighteenth, nineteen hundred and three, there is hereby appropriated out of any money in the state treasury not otherwise appropriated seventy thousand dollars (\$70,000) to meet the expenses of erecting buildings, and collecting and maintaining an exhibit of the products of the state of California at the Lewis and Clark exposition to be held in the city of Portland, Oregon, in the year nineteen hundred and five, and the controller is hereby directed to draw his warrant on the general fund from time to time for such portion of said seventy thousand dollars and in favor of such persons, as the governor of the state of California, the commissioner named in said above-mentioned act, shall direct, and the state treasurer is directed and empowered to pay the same.

§ 2. This act is exempt from the provisions of section six hundred and seventy-two of the Political Code of the state of California.

§ 3. This act shall take effect on and after its passage.

LEXINGTON.

See tits. **El Monte; Municipal Corporations.**

LIBEL AND SLANDER.

Concerning actions for libel and slander:

(Stats. 1871-2, 533, ch. CCCLXXVII.)

§ 1. In an action for libel or slander the clerk shall, before issuing the summons therein, require a written undertaking on the part of the plaintiff in the sum of five hundred (500) dollars, with at least two competent and sufficient sureties, specifying their occupations and residences, to the effect that if the action be dismissed or the defendant recover judgment, that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action, or on appeal, not exceeding the sum specified in the undertaking. An action brought without filing the undertaking required shall be dismissed.

§ 2. Each of the sureties on the undertaking mentioned in the first section shall annex to the same an affidavit that he is a resident and householder or freeholder within the county, and is worth double the amount specified in the undertaking over and above all his just debts and liabilities, exclusive of property exempt from execution.

§ 3. Within ten days after the service of the summons the defendants, or either of them, may give to the plaintiff or his attorney notice that they or he except to the sureties and require their justification before a judge of the court at a specified time and place, the time to be not less than five nor more than ten days thereafter, except by consent of parties. The qualifications of the sureties shall be as required in their affidavits. [Amendment, Stats. 1880, 81.]

§ 4. For the purpose of justification, each of the sureties shall attend before the judge at the time and place mentioned in the notice, and may be examined on oath touching his sufficiency in such manner as the judge in his discretion shall think proper. The examination shall be reduced to writing if either party desires it.

§ 5. If the judge finds the undertaking sufficient, he shall annex the examination to the undertaking, and indorse his approval thereon. If the sureties fail to appear, or the judge finds the sureties or either of them insufficient, he shall order a new undertaking to be given. The judge may also at any time order a new or additional undertaking upon proof that the sureties have become insufficient. In case a new or additional undertaking is ordered, all proceedings in the case shall be stayed until such undertaking is executed and filed, with the approval of the judge.

§ 6. If the undertaking as required be not filed in five days after the order therefor, the judge or court shall order the action to be dismissed.

§ 7. In case plaintiff recovers judgment, he shall be allowed as costs one hundred (100) dollars, to cover counsel fees, in addition to the other costs. In case the action is dismissed, or the defendant recover judgment, he shall be allowed one hundred (100) dollars, to cover counsel fees, in addition to the other costs, and judgment therefor shall be entered accordingly.

Jacobi vs. Bauer, 55 Cal. 554; Dixon vs. Cal. 421, 29 Pac. Rep. 341. See **KERR'S CYC. CIV. CODE** §§ 44-48 and notes; **KERR'S CYC. CODE CIV. PROC.** §§ 340, 460, 461 and notes.

LIBRARIES—ESTABLISHMENT OF.

To provide for the establishment and maintenance of public libraries within municipalities.

(Stats. 1901, 557, ch. CLXX; amended 1905, 296, ch. CCXCII.)

§ 1. The common council, board of trustees, or other legislative body of any incorporated city or town in the state of California, may, and upon being requested to do so by one fourth of the electors of such municipal corporation in the manner hereinafter provided, must, by ordinance, establish in and for said municipality a public library; provided, there be none already established therein.

§ 2. The request referred to in the preceding section may be by a single petition, or by several petitions; provided, that such several petitions be substantially in the same form, and that such single petition has, or such several petitions in the aggregate have, the signatures of the requisite number of electors.

§ 3. Such public library shall be managed by a board designated as the board of library trustees, consisting of five members, to be appointed by the mayor, president of the board of trustees or other executive head of the municipality, by and with the consent of the legislative body of said municipality. Such trustees shall severally hold office for three years, serving without compensation; provided, that the members of the first board appointed shall so classify themselves by lot that one of their number shall go out of office at the end of the current fiscal year, two at the end of one year thereafter, and the other two at the end of two years thereafter. Men and women shall be equally eligible to such appointment, and vacancies shall be filled by appointment for the unexpired term in the same manner.

§ 4. Boards of library trustees shall meet at least once a month at such times and places as they may fix by resolution. Special meetings may be called at any time by three trustees, by written notice served upon each member at least three hours before the time specified for the proposed meeting. A majority of the board shall constitute a quorum for the transaction of business. Such boards shall appoint one of their number president, who shall serve for one year and until his successor is appointed, and in his absence shall select a president pro tempore. Such boards shall cause a proper record of their proceedings to be kept and at the first meeting of the board of trustees of any library formed under the provisions of this act, it must immediately upon organization cause to be made out and filed with the state librarian at Sacramento, a certificate showing that such library has been established, with the date thereof, the names of the trustees and of the officers of the board chosen for the first year. [Amendment, Stats. 1905, 296.]

§ 5. Boards of library trustees shall have power:

First—To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of the libraries under their management, and all property belonging thereto.

Second—To administer any trust declared or created for such libraries, and receive by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such libraries.

Third—To prescribe the duties and powers of the librarian, secretary and other officers and employees of any such libraries; to determine the number of and appoint all such officers and employees, and fix their compensation, which said officers and employees shall hold their offices or positions at the pleasure of said boards.

Fourth—To purchase necessary books, journals, publications and other personal property.

Fifth—To purchase such real property, and erect or rent and equip, such building or buildings, room or rooms, as may be necessary, when in their judgment a suitable building, or portion thereof, has not been provided by the legislative body of the municipality for such libraries.

Sixth—To require the secretary of state and other state officials to furnish such libraries with copies of any and all reports, laws and other publications of the state not otherwise disposed of by law.

Seventh—To borrow books from, lend books to and exchange the same with

other libraries, and to allow non-residents to borrow books upon such conditions as they may prescribe.

Eighth—To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act.

§ 6. Boards of library trustees shall, on or before the last day of July in each year, make a report to the legislative body of their municipality, giving the condition of the library on the thirtieth day of June preceding, together with a statement of their proceedings for the year then ended, and must immediately upon the publication of such report, forward a copy thereof for filing to the state library at Sacramento. [Amendment, Stats. 1905, 296.]

§ 7. The legislative body of any municipality in which a public library has been established in accordance with this act, shall in making the annual tax levy and as part thereof, if the maintenance of the library has not been otherwise provided for, levy a tax for the purpose of maintaining such library and purchasing property necessary therefor, which tax shall be in addition to other taxes, the levy of which is permitted in the municipality; provided, that after two years from the passage of this act as to existing libraries and after two years from the establishment of new libraries thereunder, where a maintenance corresponding thereto has not been otherwise provided, in municipalities of the first, second and third classes, such tax levy shall not exceed one mill on the dollar of assessed valuation, and in municipalities of the fourth, fifth, and sixth classes such levy shall not exceed two mills on the dollar of assessed valuation.

§ 8. The revenue derived from said tax, together with all money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be apportioned to a fund to be designated the library fund, and be applied to the purposes herein authorized. If such payment into the treasury should be inconsistent with the conditions or terms of any such gift, devise, [or] bequest, the board shall provide for the safety and preservation of the same, and the application thereof to the use of the library, in accordance with the terms and conditions of such gift, devise or bequest. Payments from said fund shall be made in the manner provided for the payment of other demands against the municipality; provided, that demands upon said fund shall be presented to the board of library trustees for allowance rather than to the legislative or other body of the municipality.

§ 9. Every library established under this act shall be forever free to the inhabitants and non-resident taxpayers of the municipality, subject always to such rules, regulations and by-laws as may be made by boards of library trustees; and provided, that for violations of the same a person may be fined or excluded from the privileges of the library.

§ 10. Boards of library trustees and the legislative bodies of neighboring municipalities or boards of supervisors of the counties in which public libraries are situated, may contract for lending the books of such libraries to residents of such counties or neighboring municipalities, upon a reasonable compensation to be paid by such counties or neighboring municipalities.

§ 11. The title to all property acquired for the purposes of such libraries, when not inconsistent with the terms of its acquisition, or otherwise desig-

nated, shall vest in the municipalities in which such libraries are, or are to be, situated, and in the name of the municipal corporations may be sued for and defended by action at law or otherwise.

§ 12. An act entitled "An act to establish free public libraries and reading rooms," approved April twenty-sixth, eighteen hundred and eighty, is hereby repealed; provided, that, as to existing libraries this act is to be deemed a continuation thereof, and such libraries shall be governed hereby accordingly; provided, however, that this act shall have no application to any library established or governed by the provisions of a city charter, and the provisions of any city charter shall in no manner be affected by this act.

§ 13. Any ordinance establishing a library adopted under the provisions of section one of this act may be repealed by the body which adopted the same upon being requested to do so by one fourth of the electors of such municipal corporation, in the manner provided in section two of this act, and upon the repeal of such ordinance such library shall be disestablished in such municipal corporation.

§ 14. This act shall take effect immediately.

See tit. **Law Libraries**, ante.

LIBRARIES—GIFTS.

See tits. **Art Galleries**; **Law Libraries**; **Libraries**.

LICENSE.

See tits. **County Government**; **Fish and Game**; **Foreign Miners**; **Land Surveyors**; **License Tax**.

LICENSE TAX—BICYCLES, ETC.

To authorize counties, cities and counties, and incorporated towns, and chartered or incorporated cities, to license bicycles, tricycles, and similar vehicles, and collect a fee therefor, for the purpose of devoting such fee to the construction of paths along country roads for the use of pedestrians, and the wheeling thereon of such vehicles.

[Became a law under constitutional provision without governor's approval, March 16, 1901; Stats. 1901, 324.]

§ 1. Counties, cities and counties, chartered or incorporated cities and towns in the state of California, are hereby, through the governing bodies thereof, authorized and permitted to license the use of bicycles, tricycles, automobile carriages and carts, and similar wheeled vehicles propelled by the power of the rider, or by motor under control of the rider, owned, rented, and used within the several jurisdictions above named; provided, that such license shall be granted and issued only on payment of a fee not to exceed one dollar a year for each of such vehicles; and further provided, that the money so collected shall be appropriated and used only for the purpose of constructing and maintaining paths and walkways for the use of pedestrians,

and the wheeling of the above-named vehicles; and provided also, that the sum of the taxes paid to the state, county, town, or municipality, upon any vehicle the use of which is hereby authorized to be licensed, shall be deducted from the amount of the license fee hereby authorized, and credited upon the license; it being the intention that any license fee hereby authorized shall be collected in such less sum as is represented by the subtraction of the personal property tax from the sum of the license fee fixed by such ordinance.

§ 2. When an ordinance establishing such license and fixing such license fee is passed, the fee shall be collected and the license issued in the manner and by the officer or officers provided for the issuance and collection of other licenses, and the governing body of such jurisdictions named in section one of this act may devise such label, tag, or certificate as is deemed necessary to be witness of the possession of such license, and the payment of such fee; provided, that no license shall be required for any vehicle so named in this act as is in the possession of a merchant, manufacturer, or dealer, for the purposes of sale or barter, and not for use by the owner or his or her agent, or by persons to whom such vehicles are rented for use, by the hour, the day, the week, or other period of time.

§ 3. It shall be lawful for such governing bodies to provide in such ordinance or ordinances for the enforcement of penalties for the violation thereof, or for failure or refusal to take such license, or pay such license fee; provided, that no penalty shall exceed the sum of the said license fee, with the costs of collection and prosecution under the ordinance added thereto; nor shall any judgment of imprisonment exceed a period of twenty-four hours for violation of said ordinance.

§ 4. It shall be lawful to provide in any such ordinance authorized by this act, for the application of the money collected to the construction and maintenance of such paths, by said towns or cities, or consolidated cities and counties, without the limits of such town and municipal jurisdictions, but within the county, by and with the consent of the board of supervisors of such county.

§ 5. No municipal or town authority in this act referred to shall have authority by ordinance or otherwise to license any such vehicle for use as is in this act referred to, except the same is owned by a resident of such municipal or town jurisdiction, or is used by a resident of such jurisdiction; nor shall any county, by ordinance or otherwise, lay such license upon the use of any such vehicle named in this act, or require a license fee therefor, except the same is owned or used by a resident of the county without the boundaries of town or municipal jurisdictions in the county; provided, that if any town or municipal authority authorized under this act does not provide for such ordinance of license and fee as is permitted by this act, then, and in that case, the governing body of the county may by ordinance provide for the license herein provided for and permitted, and the collection of the fee authorized by this act, so as to make the same applicable to the residents of such town or municipality. But in no case shall any license or fee be required of travelers in counties other than that of their residence, nor from tourists, or visitors, or temporary residents of any city, town, city and county, or county.

§ 6. All costs and charges for licenses herein provided for, for tags, or visible evidences of issuance and possession of license, for receipts for payment of the license fee, and other necessary and inseparable expense related to such licenses, shall be paid from the sum of such collections of fees; provided, that no additional salary or fee shall be paid to any officer of any county, or town, or city, or city and county, for services in issuing or delivering licenses provided for by this act, or for collecting the fees therefor, authorized and provided for in this act.

§ 7. This act shall take effect and be in force from and after its passage.

LICENSE TAX—FERRY, BRIDGE.

To enforce the collection of license taxes.

(Stats. 1871-2, 539, ch. CCCLXXXIV.)

§ 1. Whenever any person who is required by law to pay a ferry or bridge license tax neglects to pay the same for the period of thirty days after the same is due or payable, the collector of such taxes must notify the district attorney thereof, who must at once institute proceedings against such person.

§ 2. This act shall be in force from and after its passage.

Consult tit. **County Government.**

LICENSE TAX—ITINERANT VENDORS.

Imposing a license tax upon itinerant vendors of drugs, nostrums, ointments, or appliances sold for the cure of disease, injuries, or deformities.

(Stats. 1903, 284, ch. CCXXXIII.)

§ 1. No person, as principal or agent, shall conduct as an itinerant vendor the business of selling drugs, nostrums, ointments, or any appliances for the treatment of disease, deformities, or injuries, within this state, without previously obtaining a license therefor as herein provided.

§ 2. An annual license fee of two hundred dollars is hereby levied upon all such itinerant vendors doing business in this state. Said tax shall be paid to the state board of pharmacy, for the use and benefit of the state of California, and shall constitute a special fund for the payment of the expense of said board of pharmacy, and for the enforcement of this act, and of the provisions of the act or acts creating such board of pharmacy. Upon the receipt of said sum from any persons desiring to conduct such business within this state, the secretary of said board of pharmacy shall issue a license to such person to carry on such business within this state until the first day of July, next ensuing; provided, that nothing in this act shall be construed to prevent the collection of any tax that may be imposed by any county or municipal authorities; and provided, further, that nothing herein contained shall prevent manufacturing pharmaceutical firms from placing their products on the market through their agents and managers subject to the provisions of section three of this act.

§ 3. Itinerant vendors under the meaning of this act shall include all persons who carry on the business above described by passing from house to

house, or by haranguing the people on the public streets or in public places, or use the various customary devices for attracting crowds and therewith recommending their wares, and offering them for sale.

§ 4. Said board of pharmacy shall on the first day of July of each year make a verified and itemized statement in writing to the controller of this state, of all receipts and disbursements of money coming into their hands by reason of this act.

§ 5. Any person violating any of the provisions of this act, who shall without such license, sell or offer for sale any of the above described drugs, nostrums, ointments, or appliances, shall be deemed guilty of a misdemeanor, and for such breach of this act upon conviction therefor, shall be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail for not less than fifty days or more than one hundred and twenty days, or both such fine and imprisonment. All fines recovered under this act shall be paid by the magistrate receiving the same, to the state board of pharmacy, and by said board placed in the special fund created by section two of this act.

§ 6. In all actions or prosecutions under this act it need not be alleged in the complaint nor proved by the prosecution that the defendant has not a license as required in this act, but the fact that he has such license may be pleaded as a matter of defense.

§ 7. All acts or parts of acts conflicting with this act [are] hereby repealed, in and so far as they conflict.

§ 8. This act shall take effect and be in force sixty days after its passage.

See § 25, subd. 25, County Government Act, exempting ex-Union soldiers and marines.

LICENSE TAX—SHEEP.

Restricting the powers of boards of supervisors in the matter of imposing licenses upon the business of raising, herding, grazing, and pasturing sheep.

(Stats. 1903, 41, ch. XL.)

§ 1. No license or licenses greater than five cents per head shall be imposed by the board of supervisors of any county on the business of raising, herding or pasturing sheep, and any and all licenses imposed by the board of supervisors of any county on the business of raising, herding or pasturing sheep, in excess of five cents per head, shall be and are hereby declared invalid; provided, the provisions of this act shall not apply to any license tax the validity of which is involved in any suit now pending, or to any such license tax due when this act takes effect.

§ 2. This act shall take effect immediately.

LIENS—AGISTORS—LABORERS, LOGGERS.

It was held in *Johnson vs. Perry*, 53 Cal. 351-353, that the statute of 1869-70, 723, ch. CCCCXVI, relating to liens for pasture or feed of animals, was not repealed by § 3051, Civil Code. Such contention is doubtless settled by later amendments of the code section (Stats. 1901, 270).

Various Liens.—Liens of agistors, Stats. 1891, 90, ch. LXXXVI; liens for labor with threshing machines, Stats. 1885, 109, ch. CXXV; liens of loggers and laborers in logging-camps (Stats. 1877-8, 747, ch. CCCCLXXXIV, amended in 1880, 38, and 1887, 53) are evidently designed to be

codified in and superseded by Stats. 1905, ch. CDLXI, adding five new sections to the Civil Code, to wit, §§ 3061-3065, inclusive, and those statutes are therefore omitted here.

See tits. **Mechanics' Liens; Public Work.**

As to decisions under former statutes, see Stats. 1885, 109, *Church vs. Garrison*

75 Cal. 199, 201, 16 Pac. Rep. 885; *Duncan vs. Hawn*, 104 Cal. 10, 11, 37 Pac. Rep. 626; *Lambert vs. Davis*, 116 Cal. 292, 293, 48 Pac. Rep. 123; *Blackburn vs. Bell*, 125 Cal. 171, 57 Pac. Rep. 775; *Clark vs. Brown*, 141 Cal. 93, 94, 74 Pac. Rep. 548; Stats. 1877-8, 747, *Shufleton vs. Hill*, 62 Cal. 483; *Wilson vs. Barnard*, 67 Cal. 422, 423, 7 Pac. Rep. 845.

LIFE INSURANCE COMPANIES.

See tit. **Corporations.**

LIGHTHOUSE SITES.

See tits. **Buoys and Beacons; Navigation.**

LIQUORS—SALE.

See tits. **Children; College City; Intoxicating Liquors; State Capitol; State Hospitals.**

LIVERMORE.

See tit. **Municipal Corporations.**

LOAN COMMISSIONERS.

See tits. **State Debt; Loan Commissioners.**

LODGING-HOUSES—CUBIC AIR.

Concerning lodging-houses and sleeping apartments within the limits of incorporated cities.

(Stats. 1875-6, 759, ch. CCCCXCVI.)

§ 1. Every person who owns, leases, lets, or hires, to any person, or persons, any room or apartment in any building, house, or other structure within the limits of any incorporated city, or city and county, within the state of California, for the purpose of a lodging or sleeping apartment, which room or apartment contains less than five hundred cubic feet of space, in the clear, for each person so occupying such room or apartment, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty (50) dollars or more than five hundred (500) dollars, or by imprisonment in the county jail, or by both such fine or [and] imprisonment.

§ 2. Any person or persons found sleeping or lodging, or who hires or uses for the purpose of sleeping in or lodging in any room or apartment which contains less than five hundred (500) cubic feet of space, in the clear, for each person so occupying such room or apartment, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than ten (10) or more than fifty (50) dollars, or by both such fine and imprisonment.

§ 3. It shall be the duty of the chief of police (or such other person to whom the police powers of a city are delegated) to detail a competent and qualified officer or officers of the regular force to examine into any violation

of any of the provisions of this act, and to arrest any person guilty of any such violation.

§ 4. The provisions of this act shall not be construed to apply to hospitals, jails, prisons, insane asylums, or other public institutions.

§ 5. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 6. This act shall take effect and be in force from and after its passage.

Sections 1 and 2 of the statute have been carried into the Penal Code by Stats. 1905, 77.—See **KERR'S CYC. PEN. CODE** § 401a.

LODI.

To change the name of the town of Mokelumne Hill.

(Stats. 1873-4, 690, ch. CCCCLVII.)

§ 1. The town of Mokelumne Hill, in the county of San Joaquin, shall hereafter be known and designated as the town of Lodi.

§ 2. This act shall take effect immediately.

See tit. **Municipal Corporations.**

LOGGERS' LIENS.

See tit. **Liens.**

LOGGING-CAMPS—LUNCH HOUR.

To provide for a lunch hour for laborers in sawmills, shake-mills, shingle-mills, and logging-camps.

(Stats. 1901, 75, ch. LX.)

§ 1. Every person, corporation, copartnership, or company operating a sawmill, shake-mill, shingle-mill, or logging-camp, in the state of California, shall allow to his or its employees, workmen, and laborers a period of not less than one hour at noon for the midday meal.

§ 2. Any person, corporation, copartnership, or company, his or its agents, servants, or managers, violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars nor less than one hundred dollars for each violation of the provisions of this act.

§ 3. This act shall take effect and be in force on the first day of April, nineteen hundred and one.

For scale for measurement of logs, see next succeeding statute.

LOGS—SCALE FOR MEASURING.

To establish a scale for the measurement of logs.

(Stats. 1877-8, 604, ch. CCCCXV; amended 1880, 119, ch. CVIII.)

§ 1. There shall be but one standard for the measurement of logs throughout this state.

§ 2. The following table, known as Spaulding's Table for the Measurement of Logs, is hereby made the standard and table for the measurement of logs throughout this state, to wit:

Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.
12	10	38	12	56	1,763	13	15	111	13	61	2,272
12	11	47	12	57	1,827	13	16	131	13	62	2,349
12	12	58	12	58	1,893	13	17	152	13	63	2,427
12	13	71	12	59	1,960	13	18	175	13	64	2,507
12	14	86	12	60	2,028	13	19	199	13	65	2,589
12	15	103	12	61	2,098	13	20	224	13	66	2,672
12	16	121	12	62	2,169	13	21	250	13	67	2,757
12	17	141	12	63	2,241	13	22	277	13	68	2,843
12	18	162	12	64	2,315	13	23	305	13	69	2,931
12	19	184	12	65	2,390	13	24	334	13	70	3,021
12	20	207	12	66	2,467	13	25	365	13	71	3,113
12	21	231	12	67	2,545	13	26	396	13	72	3,206
12	22	256	12	68	2,625	13	27	429	13	73	3,301
12	23	282	12	69	2,706	13	28	462	13	74	3,396
12	24	309	12	70	2,789	13	29	497	13	75	3,492
12	25	337	12	71	2,874	13	30	533	13	76	3,590
12	26	366	12	72	2,960	13	31	569	13	77	3,688
12	27	396	12	73	3,047	13	32	607	13	78	3,788
12	28	427	12	74	3,135	13	33	646	13	79	3,889
12	29	459	12	75	3,224	13	34	686	13	80	3,991
12	30	492	12	76	3,314	13	35	729	13	81	4,094
12	31	526	12	77	3,405	13	36	772	13	82	4,196
12	32	561	12	78	3,497	13	37	817	13	83	4,301
12	33	597	12	79	3,590	13	38	864	13	84	4,406
12	34	634	12	80	3,634	13	39	913	13	85	4,512
12	35	673	12	81	3,779	13	40	963	13	86	4,619
12	36	713	12	82	3,874	13	41	1,014	13	87	4,727
12	37	755	12	83	3,970	13	42	1,066	13	88	4,837
12	38	798	12	84	4,067	13	43	1,119	13	89	4,946
12	39	843	12	85	4,165	13	44	1,176	13	90	5,057
12	40	889	12	86	4,264	13	45	1,228	13	91	5,168
12	41	936	12	87	4,364	13	46	1,284	13	92	5,281
12	42	984	12	88	4,465	13	47	1,342	13	93	5,395
12	43	1,033	12	89	4,566	13	48	1,400	13	94	5,508
12	44	1,086	12	90	4,668	13	49	1,460	13	95	5,624
12	45	1,134	12	91	4,771	13	50	1,521	13	96	5,741
12	46	1,186	12	92	4,875	13	51	1,582	14	10	44
12	47	1,239	12	93	4,980	13	52	1,645	14	11	55
12	48	1,293	12	94	5,085	13	53	1,709	14	12	67
12	49	1,348	12	95	5,192	13	54	1,774	14	13	82
12	50	1,404	12	96	5,300	13	55	1,841	14	14	100
12	51	1,461	13	10	41	13	56	1,909	14	15	120
12	52	1,519	13	11	51	13	57	1,979	14	16	141
12	53	1,578	13	12	62	13	58	2,050	14	17	164
12	54	1,638	13	13	76	13	59	2,123	14	18	189
12	55	1,700	13	14	93	13	60	2,197	14	19	214

Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.
14	20	241	14	66	2,878	15	25	421	15	71	3,592
14	21	269	14	67	2,969	15	26	457	15	72	3,700
14	22	298	14	68	3,062	15	27	495	15	73	3,809
14	23	329	14	69	3,157	15	28	533	15	74	3,919
14	24	360	14	70	3,253	15	29	573	15	75	4,030
14	25	393	14	71	3,353	15	30	615	15	76	4,142
14	26	427	14	72	3,453	15	31	657	15	77	4,256
14	27	462	14	73	3,555	15	32	701	15	78	4,371
14	28	498	14	74	3,657	15	33	746	15	79	4,487
14	29	535	14	75	3,761	15	34	792	15	80	4,605
14	30	574	14	76	3,866	15	35	841	15	81	4,723
14	31	613	14	77	3,972	15	36	891	15	82	4,842
14	32	654	14	78	4,080	15	37	943	15	83	4,962
14	33	696	14	79	4,188	15	38	997	15	84	5,084
14	34	739	14	80	4,298	15	39	1,053	15	85	5,206
14	35	785	14	81	4,408	15	40	1,111	15	86	5,330
14	36	831	14	82	4,519	15	41	1,170	15	87	5,455
14	37	880	14	83	4,631	15	42	1,230	15	88	5,581
14	38	931	14	84	4,745	15	43	1,291	15	89	5,707
14	39	983	14	85	4,859	15	44	1,357	15	90	5,835
14	40	1,037	14	86	4,974	15	45	1,417	15	91	5,964
14	41	1,092	14	87	5,091	15	46	1,482	15	92	6,094
14	42	1,148	14	88	5,209	15	47	1,548	15	93	6,225
14	43	1,205	14	89	5,327	15	48	1,616	15	94	6,356
14	44	1,267	14	90	5,446	15	49	1,685	15	95	6,490
14	45	1,323	14	91	5,566	15	50	1,755	15	96	6,625
14	46	1,383	14	92	5,687	15	51	1,826	16	10	50
14	47	1,445	14	93	5,810	15	52	1,898	16	11	63
14	48	1,508	14	94	5,932	15	53	1,972	16	12	77
14	49	1,572	14	95	6,057	15	54	2,047	16	13	94
14	50	1,638	14	96	6,183	15	55	2,125	16	14	114
14	51	1,704	15	10	47	15	56	2,203	16	15	137
14	52	1,772	15	11	59	15	57	2,283	16	16	161
14	53	1,841	15	12	72	15	58	2,366	16	17	188
14	54	1,911	15	13	88	15	59	2,450	16	18	216
14	55	1,983	15	14	107	15	60	2,535	16	19	245
14	56	2,056	15	15	128	15	61	2,622	16	20	276
14	57	2,131	15	16	151	15	62	2,711	16	21	308
14	58	2,208	15	17	176	15	63	2,801	16	22	341
14	59	2,286	15	18	202	15	64	2,893	16	23	376
14	60	2,366	15	19	230	15	65	2,987	16	24	412
14	61	2,447	15	20	258	15	66	3,083	16	25	449
14	62	2,530	15	21	288	15	67	3,181	16	26	488
14	63	2,614	15	22	320	15	68	3,281	16	27	528
14	64	2,700	15	23	352	15	69	3,382	16	28	569
14	65	2,789	15	24	387	15	70	3,486	16	29	612

Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.
16	30	656	16	76	4,418	17	35	953	17	81	5,353
16	31	701	16	77	4,540	17	36	1,010	17	82	5,488
16	32	748	16	78	4,663	17	37	1,069	17	83	5,624
16	33	796	16	79	4,786	17	38	1,130	17	84	5,762
16	34	845	16	80	4,912	17	39	1,194	17	85	5,900
16	35	897	16	81	5,038	17	40	1,259	17	86	6,040
16	36	950	16	82	5,165	17	41	1,326	17	87	6,182
16	37	1,006	16	83	5,293	17	42	1,394	17	88	6,325
16	38	1,064	16	84	5,423	17	43	1,463	17	89	6,468
16	39	1,124	16	85	5,553	17	44	1,538	17	90	6,613
16	40	1,185	16	86	5,685	17	45	1,606	17	91	6,759
16	41	1,248	16	87	5,818	17	46	1,680	17	92	6,906
16	42	1,312	16	88	5,953	17	47	1,755	17	93	7,055
16	43	1,377	16	89	6,088	17	48	1,831	17	94	7,203
16	44	1,448	16	90	6,224	17	49	1,909	17	95	7,355
16	45	1,512	16	91	6,361	17	50	1,989	17	96	7,508
16	46	1,581	16	92	6,500	17	51	2,069	18	10	57
16	47	1,652	16	93	6,640	17	52	2,151	18	11	70
16	48	1,724	16	94	6,780	17	53	2,235	18	12	87
16	49	1,797	16	95	6,922	17	54	2,320	18	13	106
16	50	1,872	16	96	7,066	17	55	2,408	18	14	129
16	51	1,948	17	10	53	17	56	2,497	18	15	154
16	52	2,025	17	11	67	17	57	2,588	18	16	181
16	53	2,104	17	12	82	17	58	2,681	18	17	211
16	54	2,184	17	13	100	17	59	2,776	18	18	243
16	55	2,266	17	14	121	17	60	2,873	18	19	276
16	56	2,350	17	15	145	17	61	2,972	18	20	310
16	57	2,436	17	16	171	17	62	3,072	18	21	346
16	58	2,524	17	17	199	17	63	3,174	18	22	384
16	59	2,613	17	18	229	17	64	3,279	18	23	423
16	60	2,704	17	19	260	17	65	3,385	18	24	463
16	61	2,797	17	20	293	17	66	3,494	18	25	505
16	62	2,892	17	21	327	17	67	3,605	18	26	549
16	63	2,988	17	22	362	17	68	3,718	18	27	594
16	64	3,086	17	23	399	17	69	3,833	18	28	640
16	65	3,186	17	24	437	17	70	3,951	18	29	688
16	66	3,289	17	25	477	17	71	4,071	18	30	738
16	67	3,393	17	26	518	17	72	4,193	18	31	789
16	68	3,500	17	27	561	17	73	4,316	18	32	841
16	69	3,608	17	28	604	17	74	4,441	18	33	895
16	70	3,718	17	29	650	17	75	4,567	18	34	951
16	71	3,832	17	30	697	17	76	4,694	18	35	1,009
16	72	3,946	17	31	745	17	77	4,823	18	36	1,069
16	73	4,062	17	32	794	17	78	4,954	18	37	1,132
16	74	4,180	17	33	845	17	79	5,085	18	38	1,197
16	75	4,298	17	34	898	17	80	5,219	18	39	1,264

Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.
18	40	1,333	18	86	6,396	19	45	1,795	19	91	7,554
18	41	1,404	18	87	6,546	19	46	1,877	19	92	7,719
18	42	1,476	18	88	6,697	19	47	1,961	19	93	7,885
18	43	1,549	18	89	6,849	19	48	2,047	19	94	8,051
18	44	1,629	18	90	7,002	19	49	2,134	19	95	8,220
18	45	1,701	18	91	7,156	19	50	2,223	19	96	8,391
18	46	1,779	18	92	7,312	19	51	2,313	20	10	63
18	47	1,858	18	93	7,470	19	52	2,405	20	11	78
18	48	1,939	18	94	7,627	19	53	2,498	20	12	96
18	49	2,022	18	95	7,788	19	54	2,593	20	13	118
18	50	2,106	18	96	7,950	19	55	2,691	20	14	143
18	51	2,191	19	10	60	19	56	2,791	20	15	171
18	52	2,278	19	11	74	19	57	2,892	20	16	207
18	53	2,367	19	12	91	19	58	2,997	20	17	235
18	54	2,457	19	13	112	19	59	3,103	20	18	270
18	55	2,550	19	14	136	19	60	3,211	20	19	306
18	56	2,644	19	15	163	19	61	3,321	20	20	345
18	57	2,740	19	16	191	19	62	3,434	20	21	385
18	58	2,839	19	17	223	19	63	3,548	20	22	426
18	59	2,940	19	18	256	19	64	3,665	20	23	470
18	60	3,042	19	19	291	19	65	3,784	20	24	515
18	61	3,147	19	20	327	19	66	3,906	20	25	561
18	62	3,253	19	21	365	19	67	4,029	20	26	610
18	63	3,361	19	22	405	19	68	4,156	20	27	660
18	64	3,472	19	23	446	19	69	4,284	20	28	711
18	65	3,585	19	24	489	19	70	4,415	20	29	765
18	66	3,700	19	25	533	19	71	4,550	20	30	820
18	67	3,817	19	26	579	19	72	4,686	20	31	876
18	68	3,937	19	27	627	19	73	4,824	20	32	935
18	69	4,059	19	28	676	19	74	4,964	20	33	995
18	70	4,183	19	29	726	19	75	5,104	20	34	1,056
18	71	4,311	19	30	779	19	76	5,246	20	35	1,121
18	72	4,440	19	31	832	19	77	5,391	20	36	1,188
18	73	4,570	19	32	888	19	78	5,537	20	37	1,258
18	74	4,702	19	33	945	19	79	5,684	20	38	1,330
18	75	4,836	19	34	1,003	19	80	5,833	20	39	1,405
18	76	4,970	19	35	1,065	19	81	5,983	20	40	1,481
18	77	5,107	19	36	1,128	19	82	6,133	20	41	1,560
18	78	5,245	19	37	1,195	19	83	6,285	20	42	1,640
18	79	5,385	19	38	1,263	19	84	6,440	20	43	1,721
18	80	5,526	19	39	1,334	19	85	6,594	20	44	1,810
18	81	5,668	19	40	1,407	19	86	6,751	20	45	1,890
18	82	5,811	19	41	1,482	19	87	6,909	20	46	1,976
18	83	5,955	19	42	1,558	19	88	7,069	20	47	2,065
18	84	6,101	19	43	1,635	19	89	7,229	20	48	2,155
18	85	6,247	19	44	1,719	19	90	7,391	20	49	2,246

Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.
20	50	2,340	20	96	8,833	21	55	2,974	22	38	1,463
20	51	2,435	21	10	66	21	56	3,085	22	39	1,545
20	52	2,531	21	11	82	21	57	3,197	22	40	1,629
20	53	2,630	21	12	101	21	58	3,312	22	41	1,716
20	54	2,730	21	13	124	21	59	3,429	22	42	1,804
20	55	2,833	21	14	150	21	60	3,549	22	43	1,893
20	56	2,938	21	15	180	21	61	3,671	22	44	1,991
20	57	3,045	21	16	211	21	62	3,795	22	45	2,079
20	58	3,155	21	17	246	21	63	3,921	22	46	2,174
20	59	3,266	21	18	283	21	64	4,051	22	47	2,271
20	60	3,380	21	19	322	21	65	4,182	22	48	2,370
20	61	3,496	21	20	362	21	66	4,316	22	49	2,470
20	62	3,615	21	21	404	21	67	4,453	22	50	2,574
20	63	3,735	21	22	448	21	68	4,593	22	51	2,678
20	64	3,858	21	23	493	21	69	4,735	22	52	2,784
20	65	3,983	21	24	540	21	70	4,880	22	53	2,893
20	66	4,111	21	25	589	21	71	5,029	22	54	3,003
20	67	4,241	21	26	640	21	72	5,180	22	55	3,116
20	68	4,375	21	27	693	22	10	69	22	56	3,232
20	69	4,510	21	28	747	22	11	86	22	57	3,349
20	70	4,648	21	29	803	22	12	106	22	58	3,470
20	71	4,790	21	30	861	22	13	130	22	59	3,592
20	72	4,933	21	31	920	22	14	157	22	60	3,718
20	73	5,078	21	32	981	22	15	188	22	61	3,846
20	74	5,225	21	33	1,044	22	16	221	22	62	3,976
20	75	5,372	21	34	1,109	22	17	258	22	63	4,108
20	76	5,522	21	35	1,177	22	18	297	22	64	4,244
20	77	5,675	21	36	1,247	22	19	337	22	65	4,381
20	78	5,829	21	37	1,321	22	20	379	22	66	4,522
20	79	5,983	21	38	1,397	22	21	423	22	67	4,665
20	80	6,140	21	39	1,475	22	22	469	22	68	4,812
20	81	6,298	21	40	1,555	22	23	517	22	69	4,961
20	82	6,456	21	41	1,638	22	24	566	22	70	5,113
20	83	6,616	21	42	1,722	22	25	617	22	71	5,269
20	84	6,778	21	43	1,807	22	26	671	22	72	5,426
20	85	6,941	21	44	1,900	22	27	726	23	10	72
20	86	7,106	21	45	1,984	22	28	782	23	11	90
20	87	7,273	21	46	2,075	22	29	841	23	12	111
20	88	7,441	21	47	2,168	22	30	902	23	13	136
20	89	7,610	21	48	2,262	22	31	964	23	14	164
20	90	7,780	21	49	2,385	22	32	1,028	23	15	197
20	91	7,951	21	50	2,457	22	33	1,094	23	16	231
20	92	8,125	21	51	2,556	22	34	1,162	23	17	270
20	93	8,300	21	52	2,657	22	35	1,233	23	18	310
20	94	8,475	21	53	2,761	22	36	1,307	23	19	352
20	95	8,653	21	54	2,866	22	37	1,384	23	20	396

Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.	Length, Feet.	Diam- eter, Inches.	Con- tents, Feet.
23	21	442	23	50	2,691	24	16	242	24	45	2,268
23	22	490	23	51	2,800	24	17	282	24	46	2,372
23	23	540	23	52	2,911	24	18	324	24	47	2,478
23	24	592	23	53	3,024	24	19	368	24	48	2,586
23	25	645	23	54	3,139	24	20	414	24	49	2,696
23	26	701	23	55	3,258	24	21	462	24	50	2,808
23	27	759	23	56	3,379	24	22	512	24	51	2,922
23	28	818	23	57	3,501	24	23	564	24	52	3,038
23	29	879	23	58	3,628	24	24	618	24	53	3,156
23	30	943	23	59	3,756	24	25	674	24	54	3,276
23	31	1,008	23	60	3,887	24	26	732	24	55	3,400
23	32	1,075	23	61	4,021	24	27	792	24	56	3,526
23	33	1,144	23	62	4,157	24	28	854	24	57	3,654
23	34	1,215	23	63	4,295	24	29	918	24	58	3,786
23	35	1,289	23	64	4,437	24	30	984	24	59	3,920
23	36	1,366	23	65	4,580	24	31	1,052	24	60	4,056
23	37	1,447	23	66	4,728	24	32	1,122	24	61	4,196
23	38	1,529	23	67	4,877	24	33	1,194	24	62	4,338
23	39	1,615	23	68	5,031	24	34	1,268	24	63	4,482
23	40	1,703	23	69	5,186	24	35	1,346	24	64	4,630
23	41	1,794	23	70	5,345	24	36	1,426	24	65	4,780
23	42	1,886	23	71	5,508	24	37	1,510	24	66	4,934
23	43	1,979	23	72	5,673	24	38	1,596	24	67	5,090
23	44	2,081	24	10	76	24	39	1,686	24	68	5,250
23	45	2,173	24	11	94	24	40	1,778	24	69	5,412
23	46	2,273	24	12	116	24	41	1,872	24	70	5,578
23	47	2,374	24	13	142	24	42	1,968	24	71	5,748
23	48	2,478	24	14	172	24	43	2,066	24	72	5,920
23	49	2,582	24	15	206	24	44	2,172			

§ 3. For the measurement of logs of any greater length than indicated in the table set forth in section two of this act, the computation shall be made in accordance with table.

§ 4. All logs shall be measured at the small end and inside the bark, and the contents computed according to section two of this act. [Amendment, Stats. 1880, 119.]

§ 5. Allowance shall be made for rot, shake, or other defect in logs measured by this scale and under the provisions of this act, so as to make the survey express the actual quantity of merchantable lumber in each log.

§ 6. This act shall take effect immediately.

LOGS—LUMBER, INJURY TO.

To protect lumber manufacturers.

(Stats. 1875-6, 32, ch. LVIII.)

This statute has been carried into the Penal Code by Stats. 1905, 683.—See **KERR'S CYC. PEN. CODE** § 593a.

LOS ANGELES.

See tit. **Normal Schools.**

LOS ANGELES CITY.

See tit. **Municipal Corporations.**

LOS ANGELES COUNTY.

See tits. **El Monte—Municipal Corporation; Hunting on Private Property; Irrigation; Judges of Superior Court.**

LOS ANGELES COUNTY—ADDITIONAL JUDGES.

To increase the number of judges of the superior court of the county of Los Angeles, state of California, and for the appointment of such additional judges.
(Stats. 1887, 1, ch. II.)

§ 1. The number of judges of the superior court of the county of Los Angeles, state of California, is hereby increased from two to four.

§ 2. Within ten days after the passage of this act, the governor shall appoint two additional judges of the superior court of the county of Los Angeles, state of California, who shall hold office until the first Monday after the first day of January, A. D. eighteen hundred and eighty-nine. At the next general election, two judges of the superior court of said county shall be elected in said county, who shall be successors of the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. The salaries of said additional judges shall be the same in amount, and be paid at the same time and in the same manner, as the salaries of the other judges of the superior court of said county now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

LOS ANGELES COUNTY—JUDGES.

To increase the number of judges of the superior court of the county of Los Angeles, state of California, and for the appointment of such additional judges.
(Stats. 1889, 130, ch. CXII.)

§ 1. The number of judges of the superior court of the county of Los Angeles, state of California, is hereby increased from four to six.

§ 2. Within ten days after the passage of this act, the governor shall appoint two additional judges of the superior court of the county of Los Angeles, state of California, who shall hold office until the first Monday after the first day of January, A. D. eighteen hundred and ninety-one. At the next general election, two judges of the superior court of said county shall be elected in said county, who shall be successors of the judges appointed hereunder, to hold office for the terms prescribed in the constitution and by law.

§ 3. The salaries of such additional judges shall be the same in amount, and be paid in the same manner and at the same time, as the salaries of the other judges of the superior court of said county now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

LOS ANGELES COUNTY—ADDITIONAL JUDGES.

To provide three (3) additional judges of the superior court of the county of Los Angeles, state of California, for the manner of their appointment, and for their compensation.

(Stats. 1905, 9, ch. XIII.)

§ 1. The number of judges of the superior court of the county of Los Angeles, state of California, is hereby increased from six to nine.

§ 2. Within thirty days after the passage of this act, the governor shall appoint three additional judges of the superior court of the county of Los Angeles, state of California, who shall hold office until the first Monday after the first day of January, A. D. one thousand nine hundred and seven. At the next general election to be held in November, A. D. one thousand nine hundred and six, three additional judges of said court shall be elected in said county who shall be successors to the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. The salaries of such additional judges shall be the same in amount and be paid in the same manner and at the same time as the salaries of the other judges of the superior court of said county, now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

People vs. Markham, 104 Cal. 232, 235, 37 Pac. Rep. 918.

LOS NIETOS TOWNSHIP.

See tit. Irrigation.

LOST WARRANTS.

See tit. State Warrants.

LUMBER MANUFACTURERS.

See tits. Logging-Camps; Logs—Lumber.

LUNACY COMMISSION.

See tits. Children—Feeble-Minded; Insane.

LUNCH HOUR.

See tit. Logging Companies.

MAD RIVER.

To improve the stream known as Mad River, and its north fork in Humboldt County, and to facilitate the driving of logs therein.

(Stats. 1877-8, 788, ch. DX.)

§ 1. H. G. Vance, Nelson Young, and R. Gross, their associates, assigns, and successors in interest, are hereby authorized to construct and maintain such side booms, wing dams, rolling dams, driving dams, shear boom, and other structures, in Mad River and its north fork, as may be necessary to facilitate the running and driving of logs therein, and to blast rock, remove sunken logs, driftwood, trees, and other debris, and to improve the bed of said stream and its said north fork, so far as the same may be necessary for the purposes above mentioned, for the term of twenty years.

§ 2. Said persons, their successors and assigns, shall use all reasonable exertions, drive all logs and other timber coming into said stream or its said fork into the booms of the Mad River Boom and Land Company with promptness and dispatch; and as compensation therefor, and for the expense incurred in the improvement of said stream and its said fork, they are hereby authorized to charge and collect, upon all logs and other lumber so driven by them from abreast of and above their said works, such tolls as shall be fixed and regulated by the board of supervisors of Humboldt County, and such tolls shall be a lien upon all such logs and other lumber, after they have been secured in the booms of said Mad River Boom and Land Company.

§ 3. All persons are hereby prohibited from placing or causing to be placed in said stream or its said north fork, any log that will not float, or other obstruction to navigation. Any person violating the provisions of this section may be notified, in writing, to remove such obstruction by any person damaged thereby; and in case of neglect or refusal so to do, for the space of five days, it shall be lawful for such person or persons so damaged by such obstruction to remove the same, and the reasonable expense thereof, together with all damages caused by such obstruction, shall be a charge against the person or persons so neglecting, and the same may be collected as other debts are collected in this state.

§ 4. All persons are hereby prohibited from placing or causing to be placed in said stream or its said fork, any log more than seven feet in diameter, and in case of a violation of the provisions of this section, such log may be split by the parties herein first above named, and the reasonable expense thereof may be added to the tolls due on such log, and shall become a part of such tolls.

§ 5. No person shall construct or cause to be constructed any landing to be used by him, or so use the same as to obstruct said stream or its said fork, or the navigation thereof; and in case of a violation of the provisions of this section, the parties herein first named are authorized to remove such obstruction (if the same is not promptly done by the person or persons causing the same), and the reasonable expense thereof, together with all damages caused by such obstruction to the parties herein first named, may be collected by law from the owner or owners of such landing.

§ 6. The parties herein first named shall commence work upon the improvements herein authorized within three months from the date of the passage of this act, and shall prosecute the same with reasonable diligence until completed.

§ 7. This act shall take effect and be in force from and after its passage.

See **KERR'S CYC. POL. CODE** §§ 2389-2393, 4085, and County Government Act § 25 subd. 52.

MADERA COUNTY.

To create the county of Madera, to define the boundaries thereof, to determine the county seat, and to provide for its organization and election of officers, and to classify said county.

(Stats. 1893, 168, ch. CXLIII.)

§ 1. There may be formed out of the northern part of Fresno county a new county, to be called the county of Madera, in the manner and subject to the conditions herein named.

§ 2. The boundaries of the county of Madera shall be as follows: Beginning at a point where the third standard line south of Mount Diablo base line crosses the San Joaquin River; thence up the middle of said river, following the meanderings thereof southeasterly and northeasterly [northwesterly], to the point where said river crosses the south boundary line of township six south, of range twenty-four east, Mount Diablo base and meridian; thence running northeast to the boundary line of Mono County; thence following the line now established between Mono County and the county of Fresno, westerly, to the corner common to the counties of Tuolumne, Mariposa, and Fresno; thence following the line now established between the counties of Mariposa and Fresno, to the southeast corner of the county of Merced; thence westerly, following the line now established between the county of Merced and the county of Fresno, to a point where said line is intersected by the San Joaquin River; thence following up the middle of said river to the point of beginning.

§ 3. The county seat of the county of Madera shall be chosen as herein-after provided.

§ 4. The governor shall, when this act takes effect, appoint five persons, residents and electors of the county of Madera, who shall be and constitute a board of commissioners to perfect the organization of said county, a majority of whom shall constitute a quorum. Said commissioners shall meet in the town of Madera within twenty days after their appointment, and after being duly sworn to faithfully discharge their duties, as prescribed in this act, shall organize by electing one of their number president, and shall elect a clerk, who shall also be duly sworn to faithfully discharge his duties as clerk of said board of commissioners. Three of the members of said board shall be necessary to transact any business, and a majority of the votes of the members present at any meeting shall control in all matters coming before it. It shall be the duty of said board of commissioners, after they shall have duly organized, at their first meeting, to divide the county of Madera into five supervisor districts, as nearly equal in population as may be practicable, and shall designate the boundaries and number of each, and shall establish and designate the several election precincts in said county, and the house or place in each precinct where the election hereinafter provided for must be held. Said commissioners, and the clerk elected by them, are hereby authorized and required to discharge the same duties as are now required by law of boards of supervisors and county clerks in the counties of this state, so far as the same apply to holding elections, canvassing returns, and issuing certificates of election. They shall keep a full record of their proceedings, transmitting to the secretary of state a certified copy thereof, filing the originals with the original election returns in the county clerk's office as soon as he shall have been qualified, and thereupon the powers and duties of said commissioners shall cease and terminate.

§ 5. Within six months from the time of the first meeting of the commissioners hereinbefore provided for, said commissioners shall order an election, to be held in said county of Madera. There shall be chosen at said election a judge of the superior court, a district attorney, a county clerk, a sheriff, a tax collector, a treasurer, a recorder, an auditor, an assessor, a superintendent of schools, a county surveyor, a coroner, a public administrator, and one

supervisor for each supervisor district. At said election there shall be submitted to the qualified electors of said county of Madera, as hereinafter described, the question whether they desire a separate county government; and for the purpose of ascertaining the choice of said electors, the ballots used at said election shall have printed thereon the words "For the new county of Madera—Yes," "For the new county of Madera—No;" and all ballots on which a cross is marked with a stamp after the words "For the new county of Madera—Yes," shall be counted in favor of such county separate government; and all ballots on which a cross is marked with a stamp after the words "For the new county of Madera—No," shall be counted against such separate county government. At said election shall also be submitted to the qualified electors the location of a county seat of said county, and upon a petition of not less than five per centum of the qualified electors of said county of Madera, asking that any town or locality be voted on for county seat, it shall be the duty of the board of commissioners to place upon the ballots used at the election herein provided for, after the words "For county seat," the name of the town or locality petitioned for, and a cross mark with a stamp after the name of any town or locality shall be counted as a vote in favor of such town or locality, and the place receiving the highest number of votes therefor shall be declared by the commissioners the county seat of said county. Said election shall be conducted in every respect, except as otherwise herein provided, in accordance with the general election law for the election of county and township officers.

§ 6. All qualified electors of this state, who have been residents and electors of the territory comprising the county of Madera for ninety days preceding the election provided for in section five of this act, shall be qualified to vote at said election. The register of Fresno County, used at the general election held in the year eighteen hundred and ninety-two, in the territory comprising the county of Madera, shall be prima facie evidence of the qualification of electors. The county clerk of Fresno county is hereby directed to furnish the commissioners of Madera a certificate, under seal, showing the additional names of voters on the great register of Fresno County, registered as residing in the territory of the county of Madera since the last great register of Fresno County was printed; and the certificate of the county clerk of Fresno County, under seal, showing the registration of any qualified voter who resides in the territory forming the county of Madera, up to the date of election, shall entitle the holder thereof, if otherwise qualified by law, to vote at said election.

§ 7. It shall be the duty of the secretary of state to furnish to the clerk of said board of commissioners the quantity of ballot paper ordered by said clerk, for use at the election provided for in this act, upon payment by said clerk of the cost of such paper.

§ 8. If at said election a majority of two thirds of the votes cast on the question of separate county government shall be in favor of such separate county government, then the said territory hereinabove described shall be and become a separate county from and after the day upon which the returns of said election shall be ascertained and declared by said board of commissioners. But if at such election less than a majority of two thirds of the qualified

electors, voting for and against the creation of the proposed county, vote for the creation of said county, then this act shall cease to be of any force or effect.

§ 9. Sealed returns from the officers of election of the several precincts shall be made to the board of commissioners, at such office as they shall select in the town of Madera, within six days after the day of election.

§ 10. Each person elected to fill an office of said county under the provisions of this act shall qualify in the manner provided by law for such officers, and shall enter upon the discharge of the duties of his office within twenty days after the receipt of the certificate of his election. The person elected as judge of the superior court shall qualify before the president of said board of commissioners; and persons elected to offices of said county, other than the office of judge of the superior court, shall qualify before the judge of the superior court, or before the president of said board of commissioners, which said president of said board of commissioners, for said purpose, shall have power to administer to each of said persons his official oath.

§ 11. The officers elected or appointed under the provisions of this act shall each perform the duties and receive the compensation now provided by general law for the office to which he has been appointed or elected, in counties of the class to which the county of Madera belongs, under the general classification of counties in this state; and until otherwise provided by law, said county shall be classified as a county of the forty-second class.

§ 12. All duly elected and qualified supervisors of Fresno county, who, at the taking effect of this act, are residents of the county of Madera, shall hold their offices for the time provided by law, upon having duly qualified as supervisors of the county of Madera, for the respective districts in which they reside, as said districts are organized by action of the board of commissioners provided for in this act. All justices of the peace and all constables, duly elected and qualified, residents of the county of Madera at the taking effect of this act, shall hold their offices for the terms provided by law, upon having duly qualified as justices and constables of the county of Madera, for the respective townships in which they reside. All school trustees, acting as such at the time of the taking effect of this act, residents of the county of Madera, shall hold their offices for the time provided by law, upon having duly qualified as such for the respective school districts in which they severally reside, as such districts are now organized.

§ 13. The notaries public of Fresno County, residents of the county of Madera at the dates of their appointments, shall hold their offices until the expiration of their terms.

§ 14. The judge of the superior court chosen under the provisions of this act shall hold his office until the first Monday in January, eighteen hundred and ninety-seven, and until his successor is elected and qualified. The assessor and supervisors elected under the provisions of this act shall hold their offices until the first Monday in January, eighteen hundred and ninety-five, or until their successors are elected and qualified. The other officers, hereinbefore enumerated, shall hold their offices until the first Monday in January, eighteen hundred and ninety-five, or until their successors are elected and qualified. The successors of the officers elected under this act shall be chosen at the

general election established by law, which takes place next preceding the expiration of their respective terms of office.

§ 15. It shall be the duty of the tax collector of the county of Fresno, upon the demand of the tax collector of the county of Madera, to furnish, assign, and transfer to the tax collector of the county of Madera, a complete list of all unpaid taxes assessed and levied, during the year eighteen hundred and ninety-two, on property within the boundaries of the county of Madera. The tax collector of the county of Fresno shall file a duplicate list of such unpaid taxes assessed within the boundaries of the county of Madera with the county auditor of Fresno County. The tax collector of the county of Madera shall give to the tax collector of the county of Fresno a receipt for said list of unpaid taxes, and shall file a duplicate list with the auditor of the county of Madera, and thereupon all such unpaid taxes shall become payable to the tax collector of the county of Madera, and he is hereby authorized to collect and receipt for the same.

§ 16. The superintendent of schools of the county of Fresno shall furnish the superintendent of schools of the county of Madera with a certified copy of the last school census list of the different school districts in the territory set apart to form the county of Madera, and draw his warrants on the treasurer of Fresno County in favor of the superintendent of schools of the county of Madera for all money that is or may be due, by apportionment or otherwise, to the different school districts of the county of Madera; and the auditor of the county of Fresno shall, in like manner, draw his warrant in favor of the auditor of the county of Madera for all money that is or may be due, by apportionment or otherwise, to the different road district funds in the territory set apart to form the county of Madera; and said funds shall be properly credited to the respective districts in said county.

§ 17. The county of Madera shall be comprised in the sixty-second and sixty-third assembly districts, and in the sixteenth senatorial district, as now established, until otherwise provided by law.

§ 18. This act shall take effect and be in force from and after its passage and approval.

People vs. Markham, 104 Cal. 232, 236, 37 Pac. Rep. 918.

MAIL-CARRIERS.

See tit. Railroads—Street.

MAPS.

See tit. Municipal Corporations.

MARIN COUNTY.

Defining lawful fences.

See tits. Fences; Hunting on Private Property; Sheep-Herding.

MARIN COUNTY—STATE PRISON.

By Stats. 1861, 121, ch. CXXIX, it is provided that whenever the coroner of Marin County is called upon in his official capacity to inquire into the causes of the death of any convict at the state prison in

said county, the fees allowed him by law for such services shall not be a county charge, but shall be a legal charge against the state, and provision is made in the act for the manner of presenting such charges.

MARIPOSA COUNTY.

See tit. Boundaries.

MARKLEEVILLE.

See tit. Municipal Corporations.

MARRIED WOMEN.

See tit. Prostitution.

People vs. Mead, 145 Cal. 500, 502, 78 Pac. Rep. 1047.

MARRIED WOMEN—EARNINGS.

The statute relating to earnings of women living separate from their husbands (1869-70, 226, ch. CLXI) would seem to be superseded by the Civil Code (§§ 168-170) and

the Code of Civil Procedure (§ 370).—Humphrey vs. Pope, 122 Cal. 253-255, 54 Pac. Rep. 847.

MARSHALL MONUMENT.

To provide for the appointment of a guardian for the Marshall monument and grounds, prescribing his duties and appropriating money therefor.

(Stats. 1891, 424, ch. CCXIX.)

§ 1. The care and protection of the Marshall monument and grounds from vandalism and injury is hereby vested in the governor of California, who shall, within thirty days after the passage of this act, appoint a suitable person who shall act as the guardian of the said monument and grounds, under such rules and regulations as the governor shall prescribe.

§ 2. The duties of the guardian shall be to take charge of the said monument and grounds, and to preserve and protect the same from injury and vandalism; to keep in proper repair the road leading to said monument, over the grounds belonging to the state, and to improve said grounds under such rules and regulations as the governor may prescribe. The said guardian shall reside upon said Marshall monument grounds, or within one mile of the same; he shall hold office at the pleasure of the appointing power, and may be removed by the governor at any time for cause, after due trial.

§ 3. The guardian shall receive for his services fifty dollars per month, payable from the state treasury, in the same manner as other state officers are paid.

§ 4. The sum of one hundred and fifty dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the payment of the salary of the said guardian for the forty-second fiscal year.

§ 5. This act shall be in force and take effect from and after its passage.

MARTINEZ.

See tit. Municipal Corporations.

MARYSVILLE.

See tits. Feather River Bridge; Municipal Corporations.

MATERIAL-MEN'S LIENS.

See tit. Public Works.

MATERNITY HOSPITALS.

See tit. Hospitals.

MATRONS FOR JAILS.

See tit. Prisons.

MAYOR'S COURT.

See tit. Municipal Corporations.

MEADOW LAKE.

See tit. Municipal Corporations.

MECHANIC ARTS—COLLEGES.

See tit. Colleges.

MECHANICS' AND LABORERS' LIENS.

See tits. Liens; Loggers' Liens; Public Works; Wages.

MEDICINE—PRACTICE OF.

For the regulation of the practice of medicine and surgery in the state of California, and for the appointment of a board of medical examiners in the matter of said regulation.

(Stats. 1901, 56, ch. LI.)

§ 1. *Appointment of board, quorum.* There shall be a board consisting of nine members, which shall be known as the board of medical examiners of the state of California. The members of said board shall be elected as follows: Five members thereof shall be elected by the Medical Society of the State of California, two members thereof by the California State Homœopathic Medical Society, and two members thereof by the Eclectic Medical Society of the State of California. Said members shall be elected annually by said societies, respectively, according to such rules as each society may adopt for the election of the members to be elected by it, and the members so elected shall serve for one year, and until their successors shall have been elected and qualified. Each of said societies respectively may also elect alternates who shall fill such vacancies as may occur in its representation on the board. It shall require the affirmative vote of six members of said board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate to practise medicine and surgery as in this act provided.

§ 2. *Oath.* Each member of said board shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine, and a legally qualified practitioner of medicine in this state.

§ 3. *Organization, meetings.* Said board shall organize by electing from its number a president, vice-president, secretary and treasurer, who shall hold their respective positions during the pleasure of the board. Said board shall hold its regular meetings in the city of San Francisco, on the first Tuesdays of April, August, and December of each year, for the consideration of applications for certificates, and for the transaction of such other business as may properly come

before it, with power of adjournment from time to time until its business is concluded; provided, however, that examinations of applicants for certificates may, in the discretion of the board, be conducted in any part of the state designated by said board of examiners, under the supervision of any one member of said board, upon written questions previously prepared by said board; and when the examination is concluded the question submitted, together with the answers and any other evidence or affidavits used or produced at said examination, shall be signed by said examiner and immediately returned to the board of examiners, who shall act upon said application for a certificate in the same manner as if the person had appeared personally before said board. Notice of each regular meeting of the board shall be given by publication twice a week, for each of the two weeks next preceding each meeting, in two daily papers published in the city of San Francisco, in one daily paper published in the city of Sacramento, and in one daily paper published in the city of Los Angeles. Special meetings of the board may be held at the call of the president, at such time and place as he shall direct, and the same notice thereof shall be given as in the case of regular meetings. Said board shall procure a seal, and shall receive through its secretary applications for the certificates provided to be issued under this act.

§ 4. *Rules.* Said board may from time to time adopt such rules as may be necessary to enable it to carry into effect the provisions of this act. Any member of said board may administer oaths in all matters pertaining to the duties of said board, and the board shall have the authority to take evidence as to any matter cognizable by it.

§ 5. *Requirements, examination, fee.* Every person before practising medicine or surgery, or any of the departments of medicine or surgery in this state, must have the certificate herein provided for. In order to procure such certificate he must produce satisfactory testimonials of good moral character, and a diploma issued by some legally chartered medical school, the requirements of which medical school shall have been at the time of granting such diploma, in no particular less than those prescribed by the Association of American Medical Colleges for that year; or he must produce satisfactory evidence of having possessed such diploma, or a license from some legally constituted institution which grants medical and surgical licenses only upon actual examination, or satisfactory evidence of having possessed such license; and he must accompany said diploma or license with an affidavit stating that he is the lawful possessor of the same, that he is the person therein named, and that the diploma or license was procured in the regular course, either of instruction or examination, without fraud or misrepresentation of any kind. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit, said board may hear such further evidence as, in its discretion, it may deem proper as to any of the matters embraced in said affidavit. If it should appear from such evidence that said affidavit is untrue in any particular, or if it should appear that the applicant is not of good moral character, the application must be rejected.

In addition to the requirements above set forth, each applicant for a certificate must be personally examined by said board as to his qualifications to practise medicine and surgery. The examination shall be conducted in the English

language, and shall be, in whole or in part, in writing, and shall be on the following subjects, to wit: Anatomy, physiology, bacteriology, pathology, chemistry and toxicology, surgery, obstetrics, materia medica and therapeutics, and theory and practice of medicine. When the applicant applies for examination in materia medica and therapeutics, and theory and practice of medicine, he shall designate in what school of medicine he desires to practise, and only the member or members of the board who belong to the school so designated shall participate in this part of the examination. Examinations shall be practical in character, and designed to discover the applicant's fitness to practise medicine and surgery.

Examinations in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of one to ten. If an applicant fail in his first examination he may, after not less than six months, be re-examined. If he fail in a second examination he shall not thereafter be entitled to another examination in less than one year after date of second examination, and shall be required to pay for such examinations the full fee. The examination papers shall form a part of the records of said board, and shall be kept on file by the secretary. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret by the secretary until after the board has finally voted upon the application. The secretary of the board of medical examiners shall in no instance participate, as an examiner, in any examinations held by the board; nor shall he be entitled to vote upon the question of granting any certificate to practise medicine and surgery.

Said board may, in its discretion, accept and register, upon payment of the registration fee, and without examination of the applicant, any certificate which shall have been issued to him by the medical examining board of the District of Columbia, or of any state or territory of the United States; provided, however, that the legal requirements of such medical examining board shall have been at the time of issuing such certificate, in no degree or particular less than those of California at the time when such certificate shall be presented for registration to the board created by this act; and, provided further, that the provisions in this paragraph contained shall be held to apply only to such of said medical examining boards as accept and register the certificates granted by this board without examination by them of the ones holding such certificates. Each applicant, on making application, shall pay to the secretary of the board a fee of twenty (20) dollars, which shall be paid to the treasurer of said board by said secretary.

§ 6. *Certificate.* When any applicant has shown himself to be possessed of the qualifications herein required, and has successfully passed the said examination, a certificate must be issued to him by said board, authorizing him to practise medicine and surgery in this state. Said certificate shall be signed by the president and secretary of said board, and sealed with the seal of the board.

§ 7. *Record of proceedings.* Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set out therein.

§ 8. *Registration.* Every person holding a certificate authorizing him to

practise medicine or surgery, or both, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practising his profession, and the fact of such recording shall be indorsed on the certificate by the county clerk recording the same. Every such person, on each change of residence, must have his certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be prima facie evidence of the want of possession of such certificate. And any person holding a certificate who shall practise medicine or surgery, or attempt to practise medicine or surgery, without first having filed his certificate with the county clerk, as herein provided, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than sixty days, or by both such fine and imprisonment.

§ 9. The county clerk shall keep in a book, provided for the purpose, a complete list of the certificates recorded by him, with the date of the record; and said book shall be open to public inspection during his office hours.

§ 10. *Refusal to grant certificate; revocation of certificate; unprofessional conduct.* Said board must refuse a certificate to any applicant guilty of unprofessional conduct; but before such refusal the applicant must be cited by citation, signed by the secretary of the board, and sealed with its seal. No such citation shall be issued except upon a sworn complaint filed with the secretary of the board, charging the applicant with having been guilty of unprofessional conduct, and setting forth the particular acts constituting such unprofessional conduct. On the filing of such complaint the secretary must forthwith issue a citation, and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant of the time and place, when and where the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpœnas issued by the secretary of the board, under its seal; and said secretary shall in no case refuse to issue any such subpœna, upon a fee of twenty cents being paid him for each subpœna. Said citation and said subpœnas shall be served in accordance with the statutes of this state then in force as to the service of citations and subpœnas generally, and all the provisions of the statutes of this state then in force relating to subpœnas are hereby made applicable to the subpœnas provided for herein. If any person refuse to obey a subpœna served upon him in accordance with the statutes of this state then in force providing for the manner of serving subpœnas, the fact of such refusal shall be certified by the secretary of said board, under the seal thereof, to the superior court of the county in which the service was had, and said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court; and should said court find that the subpœna had been legally served, and that the party so served had wilfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct arising under

this act, depositions of witnesses may be taken, the same as in civil cases, and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, to the charges made against him, within twenty days after service on him of said citation, or within such further time as the board may give him, and the charges on their face be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, and to that end shall hear such evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. No certificate shall be refused on the ground of unprofessional conduct unless the applicant has been guilty of such conduct subsequently to the passage of this act, and unless he has been guilty of such conduct within two years next preceding his application. Whenever any holder of the certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter pointed out, it shall be their duty to, and they must, revoke the same at once, and the holder of said certificate shall not thereafter be permitted to practise medicine or surgery, or any of the departments of medicine or surgery, in this state. But no such revocation shall be made unless said holder is cited to appear, and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. The accused party, at the time he presents his answer for filing, shall deposit with the secretary his certificate, and unless he do so, the secretary must not file his answer, and default shall be thereupon entered against him, and his certificate revoked if the charges on their face be deemed sufficient by the board. When the certificate is revoked, the secretary of the board, if said certificate has been deposited with him, shall write across the face thereof, in red ink, the fact of such revocation, and shall file said certificate, so revoked, among the archives of his office, and shall also certify the fact of such revocation, under the seal of the board, to the county clerk of the counties in which the certificate of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following:

“This certificate was revoked on the —— day of ——,” giving the day, month and year of such revocation, in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of said board in the matter of said revocation. If said board shall decide against revocation, the certificate shall be returned to the holder thereof. No certificate shall be revoked for unprofessional conduct unless the accused has been guilty thereof subsequently to the passage of this act, and unless he has been guilty thereof within two years next preceding the time of filing the complaint charging him with such unprofessional conduct. From the time of the revocation of a certificate the holder thereof shall be disqualified from practising medicine or surgery in this state.

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

First—The procuring or aiding or abetting in procuring a criminal abortion.

Second—The obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured.

Third—The wilfully betraying a professional secret.

Fourth—All advertising of medical business in which grossly improbable statements are made.

Fifth—All advertising of any medicines, or of any means, whereby the monthly periods of women can be regulated, or the menses re-established if suppressed.

Sixth—Conviction of any offense involving moral turpitude.

Seventh—Habitual intemperance.

§ 11. *Expenditures of the board.* Said board shall have the power to employ legal counsel and clerical assistance, and to fix the salaries of the same, and to incur such other expenses as may be deemed necessary to carry into effect the provisions of this act. It shall also fix the salary of the secretary, not to exceed the sum of twenty-four hundred dollars per annum, and the sum to be paid to other members of said board, not to exceed ten dollars per diem each, for each and every day of actual service in the discharge of official duties; and said board may, in its discretion, add to said sums necessary traveling expenses. All money in excess of the actual expenses of the board shall be paid annually into the treasuries of the respective state medical societies, and shall be pro-rated according to the number of representatives of each school among the applicants examined.

§ 12. *Illegal practice.* Any person practising medicine or surgery in this state, without having, at the time of so practising, a valid, unrevoked certificate, as provided in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for a term of not less than sixty days, nor more than one hundred and eighty days, or by both such fine and imprisonment. In each such conviction one half of the fine shall be paid, when collected, to the prosecuting witness, or witnesses, and the other half shall be paid into the school fund of the county, or city and county, in which such conviction is had.

§ 13. *Unauthorized registration.* Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

§ 14. *False representation.* Any person assuming to act as a member of a state board of medical examiners, or who shall sign, or subscribe, or issue or cause to be issued, or seal or cause to be sealed, a certificate authorizing any person to practise medicine or surgery in this state, except the person so acting and doing shall have been elected a member of said board of medical examiners as in this act provided, shall be guilty of a misdemeanor, and shall be punished by a fine

of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a term of not less than sixty nor more than one hundred and eighty days, or by both such fine and imprisonment.

§ 15. *Previous registration.* Any person who holds a certificate from one of the boards of examiners heretofore existing under the provisions of "An act to regulate the practice of medicine in the state of California," approved April third, eighteen hundred and seventy-six, or an act supplemental and amendatory to said act, which became a law April first, eighteen hundred and seventy-eight, shall be entitled to practise medicine and surgery in this state, the same as if it had been issued under this act; but all such certificates may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if they had been issued under this act.

§ 16. *Definition.* The following persons shall be deemed as practising medicine or surgery within the meaning of this act:

1. Those who profess to be, or hold themselves out as being, engaged as doctors, physicians or surgeons in the treatment of disease, injury, or deformity of human beings.

2. Those who for pecuniary or valuable consideration, shall prescribe medicine, magnetism, or electricity, in the treatment of disease, injury, or deformity of human beings.

3. Those who, for pecuniary or valuable consideration, shall employ surgical or medical means or appliances for the treatment of disease, injury, or deformity of human beings, except dealers in surgical, dental and optical appliances.

4. Those who, for pecuniary or valuable consideration, prescribe or use any drug or medicine, appliance, or medical or surgical treatment, or perform any operation for the relief or cure of any bodily injury or disease.

The doing of any of the acts in this section mentioned shall be taken to be prima facie evidence of an intent on the part of the person doing any of said acts to represent himself as engaged in the practice of medicine or surgery or both; but nothing in this act shall be so construed as to inhibit service in the case of emergency, or the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy, or marine hospital service, in the discharge of his professional duties, nor to any legally qualified dentist when engaged exclusively in the practice of dentistry, nor to any physician or surgeon from another state or territory, when in actual consultation with a legal practitioner of this state, if such physician or surgeon is, at the time of such consultation, a legal practitioner of medicine or surgery in the state or territory in which he resides; nor to any physician or surgeon residing on the border of a neighboring state and duly authorized under the laws thereof to practise medicine or surgery therein, whose practice extends within the limits of this state; provided, that such practitioner shall not open an office or appoint a place to meet patients or receive calls within the limits of this state.

§ 17. *Repeal.* An act entitled "An act to regulate the practice of medicine in the state of California," approved April third, eighteen hundred and seventy-six; and an act entitled "An act supplemental to and amendatory of an act entitled 'An act to regulate the practice of medicine in the state of California,' [approved] April third, eighteen hundred and seventy-six," which became a

law April first, eighteen hundred and seventy-eight, and all acts, and parts of acts, in conflict with this act, are hereby repealed.

§ 18. This act shall take effect from and after the first day of August, nineteen hundred and one.

The foregoing, as will be observed, supersedes the previous legislation upon the same subject. Following are supreme court decisions relating to the Acts of 1875-6, 792, ch. DXVIII, and supplementary Act of 1877-8, 918, ch. DLXXVI: *Ex parte Frazer*, 54 Cal. 94, 95; *Ex parte McNulty*, 77 Cal. 164, 167, 11 Am. St. Rep. 257, 19 Pac. Rep. 237; *Gardner vs. Tatum*, 81 Cal. 370, 372, 22 Pac. Rep. 880; *Ex parte Wong You Ting*, 106 Cal. 296, 39 Pac. Rep. 627; *In re Ambrosewif*, 109 Cal. 264, 41 Pac. Rep. 1101; *People vs. Boo Doo Hong*, 122 Cal. 606, 607, 55 Pac. Rep. 402.

Also *Stats. 1901, 56*.—*Ex parte Gerino*, 143 Cal. 412, 413, 77 Pac. Rep. 166; *Ex parte Whitley*, 144 Cal. 167, 177, 77 Pac. Rep. 879.

AS TO CHRISTIAN SCIENCE PRACTITIONERS coming within the law prohibiting the practice of medicine without a license, see (holding they do not) *Wheeler vs. Sawyer* (Me. Aug. 7, 1888), 15 Atl. Rep.

67; *Kansas City vs. Baird*, 92 Mo. App. 204; *Evans vs. State*, 6 Ohio N. P. 129; *State vs. Anthony*, 20 R. I. 644, 40 Atl. Rep. 1135; *State vs. Mylord*, 20 R. I. 632, 40 Atl. Rep. 573, 41 L. R. A. 428.

Compare (holding they do come within the statute) *State vs. Buswell*, 40 Neb. 158, 58 N. W. Rep. 728, 24 L. R. A. 68 (the first case holding Christian Science practitioners amenable to the law regulating the practice of medicine); *State vs. Marble* (Ohio, Feb. 28, 1905), 73 N. E. Rep. 1063 (taking fee for "treatment"); *People ex rel. Board of Health vs. Bratsch*, (Ill.) 32 Chic. L. News 35.

See also case of *In re First Church of Christ, Scientist*, 205 Pa. St. 543, 97 Am. St. Rep. 753, 55 Atl. Rep. 536, 63 L. R. A. 411.

"**Christian Science and the Law.**"—Article in 10 Va. Law Reg. 285.

"**Manslaughter, Christian Science, and the Law.**"—Article in 7 American Lawyer 5.

MEDICINE—PRACTICE OF.

See tits. **Blindness in Infants; Optometry; Osteopathy.**

MENDOCINO COUNTY.

Repeal of Special Road Laws.

(Stats. 1873-4, 359, ch. CCLXII.)

See tits. **Hunting on Private Property; Lands.**

MENLO PARK.

See tit. **Municipal Corporations.**

MERCED CITY.

See tit. **Municipal Corporations.**

MERCED COUNTY.

To authorize the board of supervisors of Merced County to sell and convey the court-house block and buildings thereon, in the town of Snelling.

(Stats. 1873-4, 239, ch. CLXXV.)

§ 1. The board of supervisors of Merced County are hereby authorized and empowered to sell and convey the court-house block, and all improvements thereon, in the town of Snelling, in said county, said sale to be made at such time and for such sum as the supervisors may determine for the best interests of the county.

§ 2. The sale of said property shall be for cash, and the amount received therefor shall be paid into the general fund of the county, and disbursed by the treasurer as other general fund of the county.

§ 3. This act shall take effect and be in force from and after its passage.

MEXICAN WAR.

See tit. Associated Veterans.

MILITARY.

See tits. Arms; California Volunteers; Military Academies.

MILITARY ACADEMIES OR COLLEGES.

To furnish arms for the use of military academies in the state.

(Stats. 1871-2, 121, ch. CXVIII.)

§ 1. That when a military academy has been established within the state, having not less than eighty boys, uniformed, drilled, and instructed in strict accordance with the tactics of the regular United States army service, and all its course of education and economy conducted upon strict military principles, the military instructor of such academy, when regularly elected by the board of trustees or other lawful authority of the academy, be commissioned in the National Guard of California, with the rank of major.

§ 2. That upon giving bond, with good security, to be approved by the county judge of the county where the academy is situated, conditioned for the safe-keeping against fire, loss, and against all damages, in twice the value, that arms and accoutrements, the property of the state, be issued for the use of such military academy.

§ 3. The adjutant-general of the state is hereby authorized to issue such arms and accoutrements as may be needed by the said military academies, without a monthly allowance, in the same manner as arms and accoutrements are issued to regular organized companies of the National Guard of California, upon requisition made for this purpose, approved by the commander-in-chief.

§ 4. This act shall take effect immediately.

The practical value of the foregoing act should be considered in connection with KERR'S CYC. POL. CODE § 1942.

MINERAL CABINET.

To provide for the establishment of a cabinet department in the state library.

(Stats. 1871-2, 824, ch. DLXIII.)

§ 1. It shall be the duty of the state librarian to receive, arrange, and properly display, and take charge of, in the state library, the minerals, precious metals, mineralogical, geological, and fossiliferous specimens, and precious stones hereinafter mentioned and referred to, or which may hereafter become the property of the state by purchase or by presentation.

§ 2. The governor shall appoint three suitable and disinterested persons, who shall act without compensation, and shall examine and appraise the cabinet of minerals, precious metals and stones, and various specimens composing the cabinet belonging to J. M. Frey, of the city of Sacramento, and upon their making report to the governor to the effect that the said cabinet is fully worth the sum of thirteen thousand dollars, the state shall become the purchaser and owner of the said cabinet; provided, that if said report shall not recommend the said purchase, it shall not be made.

§ 3. The sum of thirteen thousand dollars is hereby appropriated out of any unappropriated money in the general fund to purchase the said cabinet.

§ 4. This act shall take effect from and after its passage.

See next following statute.

MINERAL CABINET.

To provide for the removal of the mineral cabinet from the state library.

(Stats. 1887, 74, ch. LX.)

§ 1. Within thirty days after the passage of this act the governor shall appoint a board of trustees, consisting of three persons, which shall be known as the trustees of the mineral cabinet.

§ 2. It shall be the duty of said board of trustees, within thirty days after their appointment, to select a place in the Crocker Art Gallery building, where the said cabinet shall be located, and to remove the same there. The location shall be made with a view to the safety of said cabinet from destruction, and to keeping the same open for inspection by the public; but no expense to the state shall be incurred either for room rent or care of the same.

§ 3. This act shall take effect from and after its passage.

See last preceding statute.

MINERAL LANDS.

To repeal an act entitled "An act regulating the sale of mineral lands belonging to the state," approved March twenty-eighth, eighteen hundred and seventy-four, and the acts amendatory thereof, and to provide for the sale of mineral lands under United States laws.

(Stats. 1897, 438, ch. CCLXX.)

§ 1. The following entitled acts of the legislature are hereby repealed, to wit:

First—An act entitled "An act regulating the sale of mineral lands belonging to the state," approved March twenty-eighth, eighteen hundred and seventy-four.

Second—An act entitled "An act to amend an act entitled 'An act regulating the sale of mineral lands belonging to the state,' approved March twenty-eighth, eighteen hundred and seventy-four," approved February third, eighteen hundred and seventy-six.

Third—An act entitled "An act to amend an act entitled 'An act regulating the sale of mineral lands belonging to the state,' approved March twenty-eighth, eighteen hundred and seventy-four," approved April sixth, eighteen hundred and eighty.

§ 2. When it shall be shown by affidavits or otherwise, to the satisfaction of the surveyor-general, that any portion of a sixteenth or thirty-sixth section belonging to the state is valuable for its mineral deposits, the surveyor-general shall not approve any application to purchase the same, nor shall the register of the state land office issue a certificate of purchase therefor, until the question of the character of the land has been referred, for determination, to a court of competent jurisdiction, in the manner provided by section thirty-four hundred and fourteen of the Political Code, and adjudged not to be valuable as mining land.

§ 3. The sixteenth and thirty-sixth sections belonging to the state, in which there may be found valuable mineral deposits, are hereby declared to be free and

open to exploration, occupation, and purchase of the United States, under the laws, rules, and regulations passed and prescribed by the United States for the sale of mineral lands.

§ 4. This act shall take effect from and after its passage.

As to Stats. 1873-4, see *Widekind vs. Craig*, 56 Cal. 642, 643.

As to Stats. 1897, see *Dwinnell vs. Dyer*, 145 Cal. 12, 14-26, 78 Pac. Rep. 247.

See tit. *Lands of State*.

MINERAL WATERS.

See tits. *Adulteration*; *State Analyst*.

MINERS—FOREIGN.

See tit. *Foreign Miner's License*.

MINER'S INCH.

Fixing and defining a miner's inch of water.

(Stats. 1901, 660, ch. CCXXII.)

§ 1. The standard miner's inch of water shall be equivalent to one and one half cubic feet of water per minute, measured through any aperture or orifice.

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 3. This act shall be in effect and force sixty days from and after its passage.

MINING—BELL SIGNALS.

To establish a uniform system of mining bell signals, to be used in all mines operated in the state of California, and for the protection of miners.

(Stats. 1893, 82, ch. LXXIV.)

§ 1. Every person, company, corporation, or individual operating any mine within the state of California—gold, silver, copper, lead, coal, or any other metal or substance where it is necessary to use signals by means of bell or otherwise for shafts, inclines, drifts, cross-cuts, tunnels, and underground workings—shall, after the passage of this bill, adopt, use, and put in force the following system or code of mine bell signals, as follows:

1 bell, to hoist. (See rule 2.)

1 bell, to stop, if in motion.

2 bells to lower. (See rule 2.)

3 bells, man to be hoisted; run slow. (See rule 2.)

4 bells, start pump, if not running, or stop pump if running.

1—3 bells, start or stop air compressor.

5 bells, send down tools. (See rule 4.)

6 bells, send down timbers. (See rule 4.)

7 bells, accident; move bucket or cage by verbal orders only.

1—4 bells, foreman wanted.

2—1—1 bells, done hoisting until called.

2—1—2 bells, done hoisting for the day.

2—2—2 bells, change buckets from ore to water, or vice versa.

3—2—1 bells, ready to shoot in the shaft. (See rule 3.)

Engineer's signal, that he is ready to hoist, is to raise the bucket or cage two feet and lower it again. (See rule 3.)

Levels shall be designated and inserted in notice hereinafter mentioned. (See rule 5.)

§ 2. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

Rule 1. In giving signals make strokes on bell at regular intervals. The bar (—) must take the same time as for one stroke of the bell, and no more. If timber, tools, the foreman, bucket, or cage, are wanted to stop at any level in the mine, signal by number of strokes on the bell the number of the level first before giving the signal for timber, tools, etc. Time between signals to be double bars (— —). Examples:

6 — — 5, would mean stop at sixth level with tools.

4 — — 1—1—1— — 1, would mean stop at fourth level, man on, hoist.

2 — — 1—4, would mean stop at second level with foreman.

Rule 2. No person must get off or on the bucket or cage while the same is in motion. When men are to be hoisted, give the signal for men. Men must then get on bucket or cage, then give the signal to hoist. Bell cord must be in reach of man on the bucket or cage at stations.

Rule 3. After signal "Ready to shoot in shaft," engineer must give his signal when he is ready to hoist. Miners must then give the signal of "Men to be hoisted," then "spit fuse," get into the bucket, and give the signal to hoist.

Rule 4. All timbers, tools, et cetera, "longer than the depth of the bucket," to be hoisted or lowered, must be securely lashed at the upper end of the cable. Miners must know they will ride up or down the shaft without catching on rocks or timbers, and be thrown out.

Rule 5. The foreman will see that one printed sheet of these signals and rules for each level and one for the engine-room are attached to a board not less than twelve inches wide by thirty-six inches long, and securely fasten the board up where signals can be easily read at the places above stated.

Rule 6. The above signals and rules must be obeyed. Any violation will be sufficient grounds for discharging the party or parties so doing. No person, company, corporation, or individuals operating any mine within the state of California shall be responsible for accidents that may happen to men disobeying the above rules and signals. Said notice and rules shall be signed by the person or superintendent having charge of the mine, who shall designate the name of the corporation or the owner of the mine.

§ 3. Any person or company failing to carry out any of the provisions of this act shall be responsible for all damages arising to or incurred by any person working in said mine during the time of such failure.

§ 4. This act shall take effect immediately.

See tit. Mining—Protection of Workmen, post.

MINING—PARTNERSHIPS.

(Stats. 1865-6, 828, ch. DC.)

This would appear to be one of the statutes clearly superseded by the codes.—See KERR'S CYC. CIV. CODE §§ 2428, 2511-2520, and decisions there noted.

MINING—PROTECTION OF WORKMEN.

For the protection of miners.

(Stats. 1871-2, 413, ch. CCCV.)

§ 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz-mining claims within the state of California, where such corporation, association, owner, or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

§ 2. It shall be the duty of each corporation, association, owner, or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner, or owners of mines, as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

§ 3. When any corporation, association, owner, or owners of any quartz mine in this state shall fail to provide for the proper egress as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages as provided by an act entitled an act requiring compensation for causing death by wrongful act, neglect, or default, approved April twenty-sixth, eighteen hundred and sixty-two.

§ 4. This act shall take effect and be in force six months from and after its passage.

MINING—RIGHTS OF WAY, ETC.

Relating to the working, rights of way, easement, and drainage of mines in the state of California.

(Stats. 1891, 219, ch. CLV.)

§ 1. Whenever any mine owner, company, or corporation shall have performed the labor and made the improvements required by law for the location and ownership of mining claims or lodes, such owner, company, or corporation shall file or cause to be filed, within thirty days after the time limited for performing such labor or making such improvements, with the county recorder of

deeds of the county in which the mine or claim is situated, [an affidavit] particularly describing the labor performed and improvements made, and the value thereof, which affidavit shall be prima facie evidence of the facts therein stated. Upon the failure of any claimant or mine owner to comply with the conditions of this act in the performance of labor, or making of improvements upon any claim, mine, or mining ground, the claim or mine upon which such failure occurred shall be opened to relocation in the same manner as if no location of the same had ever been made. But if, previous to relocation, the original locators, their heirs, assigns, or legal representatives, resume work upon such claim, and continue the same with reasonable diligence until the required amount of labor has been performed or improvements made, and the required statement of accounts and affidavits filed with the county recorder, then the claim shall not be subject to relocation because of previous failure to file accounts. Upon the failure of any one of the several co-owners to contribute his portion of the expenditures required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice, in writing, or by publication in the newspaper published nearest the claim for at least once a week for ninety days; and if, at the expiration of ninety days after such notice in writing or publication, such delinquent shall fail or refuse to contribute his portion of the expenditures required by this section, his interest in the claim shall become the property of his co-owners who made the required expenditures. A copy of such notice, together with an affidavit showing personal service or publication, as the case may be, of such notice, when filed or recorded with the recorder of deeds of the county in which such mining claim is situated, shall be evidence of the acquisition of title of such co-owners. Where a person or company has or may run a tunnel or cuts for the purpose and in good faith for the purpose of developing a lode, lodes, or claims owned by said person or company or corporation, the money so expended in running said tunnel shall be taken and considered as expended on said lodes or claims; provided further, that said lode, claim, or claims shall be distinctly marked on the surface as provided by law.

§ 2. All mining locations and mining claims shall be subject to a reservation of the right of way through or over any mining claims, ditches, roads, canals, cuts, tunnels, and other easements for the purpose of working other mines; provided, that any damage occasioned thereby shall be assessed and paid for in the manner provided by law for land taken for public use under the right of eminent domain.

§ 3. This act shall take effect immediately.

Harris vs. Kellogg, 117 Cal. 484, 490, 49 Pac. Rep. 708.

MINING—STOCKHOLDERS.

To repeal an act entitled "An act for the further protection of stockholders in mining companies," approved April twenty-third, eighteen hundred and eighty, and the act amendatory thereof, approved March ninth, eighteen hundred and ninety-seven, relating to the protection of stockholders in mining companies.

(Stats. 1905, 74, ch. LXXVII.)

§ 1. An act entitled "An act for the further protection of stockholders in mining companies," approved April twenty-third, eighteen hundred and eighty, and an act entitled "An act to amend section one of an act entitled 'An act for the further protection of stockholders in mining companies,' approved April twenty-third, eighteen hundred and eighty," approved March ninth, eighteen hundred and ninety-seven, are hereby repealed.

§ 2. This act shall take effect immediately.

There might appear some obscurity in the above repeal from omission to mention Stats. 1873-4, of which Stats. 1880, 134, and Stats. 1897, 38, are amendatory; but examination will disclose that the statute of 1880, 134, so amended the original statute, by each section, as to entirely supersede it. Treating the entire subject as being now embodied in §§ 588-590 of the Civil Code by the statute of 1905, 584, the decisions are noted as follows:

Stats. 1873-4, 866; 1880, 134; 1897, 38.—Hewlett vs. Epstein, 63 Cal. 184; Loveland vs. Garner, 71 Cal. 541, 12 Pac. Rep. 616, 74 Cal. 298, 15 Pac. Rep. 844; Beal vs. Osborne, 72 Cal. 305, 13 Pac. Rep. 871; Schenck vs. Bandmann, 81 Cal. 231, 22 Pac. Rep. 654; Chapman vs. Doray, 89 Cal. 52, 26 Pac. Rep. 605; Francais vs. Somps, 92 Cal. 503, 504, 28 Pac. Rep. 592; Eyre vs. Harmon, 92 Cal. 580, 28 Pac. Rep. 779; Shanklin vs. Gray, 111

Cal. 88, 89, 43 Pac. Rep. 399; Miles vs. Woodward, 115 Cal. 308, 310, 46 Pac. Rep. 1076; Ball vs. Tolman, 119 Cal. 358, 359, 51 Pac. Rep. 546; Johnson vs. California Lustral Co., 127 Cal. 283, 284, 59 Pac. Rep. 595; Krause vs. Durbrow, 127 Cal. 681, 685, 60 Pac. Rep. 438; Johnson vs. Tautphaus, 127 Cal. 605, 606, 60 Pac. Rep. 172; Curtin vs. Salmon River etc. Co., 130 Cal. 345, 351, 80 Am. St. Rep. 132, 62 Pac. Rep. 552; Ball vs. Tolman, 135 Cal. 375, 377, 87 Am. St. Rep. 110, 67 Pac. Rep. 339.

Stats. 1880, 131.—Alvord vs. Spring Valley G. Co., 106 Cal. 547, 551, 40 Pac. Rep. 27; Granite G. Min. Co. vs. Maginness, 118 Cal. 131, 137, 50 Pac. Rep. 269; Curtin vs. Salmon River etc. Co., 141 Cal. 308, 310, 99 Am. St. Rep. 75, 74 Pac. Rep. 851; Galbraith vs. Shasta Iron Co., 143 Cal. 94, 99, 76 Pac. Rep. 901; Lacy vs. Gunn, 144 Cal. 511, 514, 78 Pac. Rep. 30.

MINING CLAIMS—ABANDONED.

To provide for the covering or fencing of abandoned mining shafts, pits or excavations, the penalty, and also the penalty for removing or destroying the covering or fencing from same.

(Stats. 1903, 283, ch. CCXXXII.)

§ 1. All abandoned mining shafts, pits or other abandoned excavations dangerous to passers-by or live-stock shall be securely covered or fenced, and kept so, by the owners of the land or persons in charge of the same, on which such shafts, pits or other excavations are located. Any person or persons failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

§ 2. All abandoned mining shafts, pits or other excavations situated on unoccupied public lands may be securely covered or fenced by order of the board of supervisors of the county wherein the same is [are] situated, and it shall be the duty of the board of supervisors to keep the same securely fenced or covered whenever it appears to them, by proof submitted, that the same is [are] dangerous or unsafe to man or beast. The cost of said covering or fencing to be a county charge.

§ 3. Any person or persons maliciously removing or destroying any covering or fencing placed around or over any shaft, pit or other excavation, as hereinbefore provided, shall be deemed guilty of a misdemeanor.

§ 4. This act shall take effect six months from the day of passage.

MINING CLAIMS—RECORDING.

As to the statute of 1897, 214, ch. CLIX, prescribing the manner of locating claims, see Stats. 1897, 97, ch. XCIV; 1899, 148, ch. CXIII; 1900 (extra session), 9, ch. VI; **KERR'S CYC. CIV. CODE** § 1159. See *County Kern vs. Lee*, 129 Cal. 361-363, 61 Pac. Rep. 1124. See also *Talmadge vs.*

St. John, 129 Cal. 430, 435, 62 Pac. Rep. 79; *Conway vs. Hart*, 129 Cal. 480, 62 Pac. Rep. 44; *McCann vs. McMillan*, 129 Cal. 350, 62 Pac. Rep. 31; *Eaton vs. Norris*, 131 Cal. 561, 563, 63 Pac. Rep. 856; *Dwinnell vs. Dyer*, 145 Cal. 12, 17-26, 78 Pac. Rep. 247.

MINING—GENERAL SUBJECT.

See **tits. Coal Mines; Debris Commissioner; Larceny from Mines; Mining Claims; Mineral Lands; State Hospital for Miners; State Mining Bureau.**

MINERALOGIST.

See **tit. State Mining Bureau.**

MINORS—VISITING SALOONS.

See **tits. Children; Intoxicating Liquors.**

MISSING PERSONS.

Authorizing the appointment of trustees for the estates of missing persons, and defining the duties of such trustees.

(Stats. 1893, 218, ch. CLXXXIV.)

§ 1. That whenever any resident of this state has been or may hereafter be missing, or his whereabouts unknown, for the period of ninety days, and any such person owns, is seized, or entitled to the seizin or the possession of any real or personal property in this state, and it is represented to the superior court, or a judge thereof, of any county in which such person owns any property, upon verified petition of the wife or of any relative or friend of such person, that his whereabouts has been unknown for such period of time and is still unknown, and that his estate requires the attention, supervision, and care of ownership, it shall be the duty of such court to appoint some suitable person or persons to take charge and possession of such estate as trustee, and to manage and control the same under the direction of said court.

§ 2. That in appointing such trustee the court shall preferably appoint the wife of such missing person (if any such there be), or her nominee, and in the absence of a wife, some person who would be entitled to participate in the distribution of such missing person's estate were he dead. And the court shall have power to direct such trustee to pay to the person or persons constituting the family of such missing person such sum or sums of money, for family expenses and support, from the income of such estate, as it may from time to time determine.

§ 3. That the bond of the trustee so appointed shall be in double the amount of the estimated annual income of such estate; provided, that where such missing person has a wife living and no children, and the estate of such missing person is shown to be solvent, and the wife applies to be appointed trustee, the court shall require no bond of her.

§ 4. It shall be the duty of such trustee or trustees to take possession of all the real and personal estate in this state of such missing person, and to collect

and receive the rents, income and profits thereof; to collect all indebtedness owing to such missing person, and pay the costs and expenses thereof out of the trust fund, and to pay such indebtedness of such missing person as he may be authorized to do by the court making the appointment of the trustee; and he shall from time to time, as he may be directed, account to and with said court for all of his or their acts and doings as trustee, and the court making such appointment may at any time, upon the application of any party interested, and upon good cause shown therefor, remove any trustee which it may so appoint, and appoint some other person or persons trustee or trustees in his or their place or stead.

§ 5. Upon presentation of the verified petition mentioned in section one, the court or judge shall order the same to be filed with the clerk of the court, and shall appoint a time for the hearing of said petition, not less than ten days from the date of said order; and the clerk shall publish notice in some newspaper published in said county, stating that such petition will be heard at the time so appointed, in the court-room of said court. Said notice shall be published for five days, and such other notice of said application shall be given in such manner and to such persons as the court or judge may direct. All orders, judgments, and decrees made in proceedings under this statute may be entered and recorded as and with the like effect as other orders, judgments, and decrees in superior courts. From and after the presentation of said petition, and until decision rendered thereon, the wife of such missing person shall have all the powers of a trustee duly appointed and qualified under this act, and shall act as such trustee, subject to the direction of the court.

§ 6. This act shall be in force from and after its passage.

MISSIONS—OLD.

See tit. **Historic Property.**

MOCKING-BIRDS.

To prevent the capture and destruction of mocking birds in this state.

(Stats. 1871-2, 102, ch. CIX.)

§ 1. Any person or persons who shall wilfully and knowingly shoot, wound, trap, snare, or in any other manner catch or capture any mocking-bird in the state of California, or shall knowingly take, injure, or destroy the nest of any mocking-bird, or shall take, injure, or destroy any mocking-bird's eggs, in the nest or otherwise, in said state, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of the township in which the offense shall have been committed, shall be fined in a sum not less than five dollars nor exceeding ten dollars, and cost of the action for each offense, or may be imprisoned not less than five days nor more than ten days, or by both such fine and imprisonment, as the judgment of the court may direct.

§ 2. All fines collected under the provisions of this act shall be paid into the county treasury for the benefit of the common school fund.

Birds and birds' nests in cemeteries.—See **KERR'S CYC. PEN. CODE** § 598 and note.

MODESTO.

See tits. **Municipal Corporations; Water Supply**; also Stats. 1875-6, 41.

MODESTO IRRIGATION DISTRICT.

Is believed to be now reorganized under Wright Act. 88, Cal. 334.

MODOC COUNTY.

To create the county of Modoc, to establish the boundaries thereof, and to provide for its organization.

(Stats. 1873-4, 124, ch. CVII; supplemented 1873-4, 517, ch. CCCLV.)

§ 1. There shall be formed out of the eastern part of Siskiyou County, a new county, to be called Modoc.

§ 2. The boundaries of Modoc County shall be as follows: Commencing at the northeast corner of the state of California; thence west, along the northern boundary line of said state, to the range line between ranges numbers four (4) and five (5) east, of Mount Diablo base and meridian; thence due south, on said range line, to the southern boundary line of Siskiyou County; thence east along said southern boundary line, to the state line; and thence north to the place of beginning.

§ 3. The seat of justice shall be at the town of Dorrisbridge, until otherwise provided by law.

§ 4. The governor of this state shall, when this act takes effect, appoint some suitable person, resident of Modoc County, to act as county judge, who shall reside at the county seat, and whose term of office shall continue until the first day of January, A. D. eighteen hundred and seventy-six, and until his successor is elected and qualified. The county judge shall receive a salary of one thousand dollars per annum, to be paid quarterly, and shall hold the courts required by law to be held by county judges. There shall be three regular terms of the county court held in each year, said terms to commence on the first Monday in February, June, and October; provided, however, the county judge shall call and hold special terms of the probate court whenever public necessity may require. Said county judge shall discharge all the duties required by law of county judges in this state.

§ 5. An election shall be held in said Modoc County within sixty days from the time of the first meeting of the commissioners in this act provided for. At said election there shall be chosen by the qualified voters of said county one district attorney; one county clerk, who shall be ex officio auditor, recorder, and clerk of the board of supervisors, board of equalization, and board of canvassers; one county superintendent of public schools, one sheriff, who shall be ex officio county tax collector, one county assessor, one county treasurer, one county surveyor, one county coroner, who shall be ex officio public administrator. Said county officers shall hold their respective offices until the first Monday of March, A. D. eighteen hundred and seventy-six, and until their successors are elected and qualified. At said election there shall be chosen one supervisor for each supervisor district in said county, who shall hold their offices as follows: District number one, until the first Monday of November,

A. D. eighteen hundred and seventy-four; district number two, until the first Monday of November, A. D. eighteen hundred and seventy-five; and district number three, until the first Monday of November, A. D. eighteen hundred and seventy-six. At said election there shall be chosen two constables and two justices of the peace for each township; provided, however, that all constables and justices and road overseers elected at the general and judicial elections held in the year A. D. eighteen hundred and seventy-three, residents of Modoc County, shall hold their offices for the time provided by law, upon having duly qualified as township officers of Modoc County for the respective townships in which they reside, as said townships are organized by the action of the board of commissioners, provided for by this act. At said election the qualified electors of said county shall vote for a place for county seat, and a majority of all the votes cast shall be necessary to locate the same; and until the county seat is located, by a vote of the qualified electors, the board of supervisors of said Modoc County are hereby prohibited from incurring any indebtedness for the erection of county buildings in said county. For the purposes of this election the county clerk of Siskiyou County shall furnish each election precinct established by the board of commissioners of Modoc county with two (2) copies of the great register of Siskiyou County, printed for the general election held in said county in the year eighteen hundred and seventy-three; and, if necessary, said county clerk is hereby authorized to take said copies from the election returns now on file in his office.

§ 6. The governor shall, when this act takes effect, appoint five persons, residents of Modoc County, who shall be and constitute a board of commissioners, to perfect the organization of said county, a majority of whom shall constitute a quorum. Said commissioners shall meet at the county seat, within twenty days after their appointment, and, after being duly sworn to faithfully discharge their duties, as prescribed by this act, shall organize, by electing from their number a president and clerk. They shall then divide said county into townships, define their boundaries, and designate the name of each. They shall also divide said county by townships into three supervisor districts, and number the same. They shall also establish election precincts, and appoint one inspector and two judges of election for each precinct in said county. They shall give thirty days' notice, by proclamation in some newspaper published in Modoc County, or if there be no newspaper published in Modoc County, then said publication to be made in some newspaper published in the county of Siskiyou, of the officers to be elected, the precincts established, with their names and boundaries, the officers of election of each precinct, and the number and boundaries of each supervisor district. Said commissioners shall, on the second Monday after said election, meet at the county seat as a board of canvassers, and proceed to canvass the election returns. Said commissioners, their president, and clerk, are hereby authorized and required to discharge the same duties as are now required by law of boards of supervisors and county clerks in the counties in this state, so far as the same apply to holding elections, canvassing election returns, and issuing certificates of election. They shall keep a full record of all their proceedings, and file the same, with the original election returns, in the county clerk's office, as soon as he shall have been qualified, and thereupon the power and duties of said commissioners shall cease.

§ 7. It shall be the duty of the board of supervisors of Modoc County, whose election is provided for by this act, to meet at the county seat on the first Monday of the month subsequent to their election, take the oath of office, and file the official bond required by the Political Code. The member of district number one shall be president of the board. They shall then allow such per diem and mileage to the commissioners and officers of election as they may think proper and just, and a warrant shall be drawn by the auditor on the county general fund in favor of each person to whom an allowance shall have been made, for the amount of such allowance. Said board shall appoint two citizens, and freeholders of Modoc County, to act as joint commissioners with an equal number to be appointed by the board of supervisors of Siskiyou County, to ascertain and declare the amount of the indebtedness of Modoc County to Siskiyou County. Immediately on their appointment, such commissioners shall notify the board of supervisors of Siskiyou County of that fact. Upon the receipt of such information said board shall proceed, without unnecessary delay, to appoint a like number of commissioners, citizens and freeholders of Siskiyou County, who shall, at the time and place to be agreed upon, meet with the commissioners of Modoc County. The commissioners of the respective counties, after having severally taken an oath to discharge honestly and to the best of their ability their duties as commissioners, shall organize as a joint commission, by the selection of one of their number as president, and one as secretary. As soon as organized the joint commission shall proceed, in the following manner, to determine the amount of the indebtedness of Modoc County to Siskiyou County, to wit: they shall ascertain the indebtedness of Siskiyou County at the time this act takes effect; they shall then ascertain the total value of the assets belonging to said county; they shall then ascertain the assessed value, under the assessments of eighteen hundred and seventy-three, of the property in the territory hereby set apart to form Modoc County; then, after deducting the assets from the indebtedness, so as to ascertain the actual indebtedness, the proportion due from Modoc County to Siskiyou County shall be ascertained as follows: as the total assessed value of property in the territory taken from Siskiyou County to form Modoc County is to the total assessed value of Siskiyou County before the formation of Modoc County, so shall be the proportion of the actual indebtedness of Modoc County to Siskiyou County, and said commissioners shall certify to their respective boards of supervisors such amount. The board of supervisors of Modoc County shall then issue the bonds of said county, payable in ten years from the organization of said county, and bearing interest at the rate of ten per centum per annum, payable annually, principal and interest of said bonds to be paid in United States gold coin to said Siskiyou County, for such sum as the commissioners certify to be due, said bonds to be of the denomination of five hundred dollars. Said board of supervisors shall procure and provide a suitable place or places, to be used as a court-house and jail until the location of the county seat is determined and a suitable building erected. They shall, when they levy state and county taxes, levy a tax of twenty cents upon each one hundred dollars of taxable property in said county, which shall be collected as other state and county taxes are collected, and shall be set apart as an interest and sinking fund to liquidate the debt due from Modoc County to

the county of Siskiyou. Said interest and sinking fund shall be appropriated, first, to pay the interest due on the bonds, according to the tenor thereof, given by Modoc County to Siskiyou County; and, second, whenever there shall be a sufficient sum remaining after paying interest as aforesaid, to pay off one of said bonds, the treasurer of Modoc County shall present the same to the treasurer of Siskiyou County, at Yreka, who, upon receipt thereof, shall surrender one of said bonds, which shall be canceled by the treasurer of Modoc County, and filed in the clerk's office. Said board of supervisors shall exercise such other powers and duties as are conferred by the general laws on boards of supervisors in the counties of this state.

§ 8. All civil actions, or proceedings in the nature of actions, whether original or upon appeal, civil or criminal, which shall be pending in the district court, county court, or probate court, in the county of Siskiyou, at the time of the organization of Modoc County, in which the defendants are residents of Modoc County, shall be removed for trial and final determination to the proper courts of Modoc County, on motion of any party interested; provided, that actions commenced for the collection of taxes and licenses, shall not be removed from the courts of Siskiyou County; provided, further, that in all criminal cases, where the offenses were committed in the limits of Modoc County, upon the application of the district attorney of Modoc County, said cases shall be removed to Modoc County.

§ 9. All residents or property holders of Modoc County, upon application to the county recorder of Siskiyou County, and upon the payment of the fees required by law, shall be entitled to receive a transcript of the record, duly attested, of any property situated in the county of Modoc and recorded in his office; and upon presentation of said transcript to the county recorder of Modoc County, and upon the payment of the fees required by law, said recorder shall record the same, and said record shall have the full force and effect of the original record; provided, however, that the board of supervisors of Modoc County shall, within two years, procure a suitable set of books, and make such arrangements as they may agree upon with the county recorder of Siskiyou County, for the transcribing therein all necessary records, properly certified; said records to have the same effect and force as the original records.

§ 10. Modoc County shall be attached to and form a part of the twenty-eighth senatorial district, and, for judicial purposes, shall be attached to and form a part of the ninth judicial district. The terms of the district court shall be held in and for the county of Modoc on the second Monday of July and the third Monday of October of each year.

§ 11. The county officers of Modoc County shall, except as otherwise provided by this act, be elected at the same time as the county officers in other counties of this state, and shall hold their offices for the term fixed by law. They shall give bonds, for the faithful discharge of their duties, in such manner and sums as required by the Political Code. The supervisors of Modoc County shall provide for the election of their successors, whose term of office shall be three years.

§ 12. All officers provided for by this act, shall perform duties as required by the general laws of the state, unless otherwise provided by this act.

§ 13. The supervisors of Modoc County shall receive for their services four dollars per day, and twenty-five cents per mile for coming to the county seat; provided, that but one mileage shall be charged for each term of the board; and, provided, that for the year eighteen hundred and seventy-four, and any year thereafter, the per diem and mileage of any one supervisor shall not exceed the sum of two hundred dollars.

§ 14. The officers of Modoc County shall receive the following salaries and fees: The treasurer shall receive per annum the sum of six hundred dollars; the assessor, for assessing said county, shall receive per annum the sum of six hundred dollars; the district attorney, the sum of five hundred dollars, and the fees allowed the district attorney of Siskiyou County; the superintendent of public schools, the sum of three hundred dollars; the sheriff and county clerk shall receive the same fees the sheriff and county clerk of Siskiyou County receive; provided, that when said fees are a charge against said Modoc County, a deduction of twenty-five per centum shall be made therefrom; and, provided further, that the county clerk, as clerk of the board of supervisors, board of equalization, and board of canvassers, shall receive the sum of one hundred and fifty dollars per annum, payable quarterly. The other officers of Modoc County shall receive no salaries, but the same fees allowed similar officers in Siskiyou County.

§ 15. Modoc County shall be entitled to five notaries public, as provided for by law.

§ 16. The superintendent of public schools of Siskiyou County shall furnish the superintendent of public schools of Modoc County a certified copy of the last census lists of the different school districts in the territory set apart to form Modoc County, and shall draw his warrants on the treasurer of Siskiyou County, in favor of the superintendent of schools of Modoc County, for all money that is or may be due by apportionment or otherwise to the different school districts of Modoc County.

§ 17. No indebtedness shall be incurred by Modoc County which will in the aggregate exceed the sum of twenty thousand dollars.

§ 18. All acts and parts of acts, so far as they conflict with the provisions of this act, are hereby repealed.

§ 19. This act shall take effect and be in force from and after its passage.

See next following statute.

MODOC COUNTY.

Supplemental to an act entitled an act to create the county of Modoc, to establish the boundaries thereof, and to provide for its organization, approved February seventeenth, eighteen hundred and seventy-four.

(Stats. 1873-4, 517, ch. CCCLV.)

§ 1. The auditor of Siskiyou County must draw his warrants on the treasurer of the same county, and in favor of the hospital fund of Modoc County, for the sums in the hospital funds of Surprise Valley, Big Valley, and Hot Spring Valley townships of Modoc County, respectively, and transmit the same to the auditor of Modoc County, who, on receipt thereof, must place their

amounts to the credit of the hospital fund of the county, and deliver the warrants to the treasurer of the county. The treasurer must present the warrants to the treasurer of Siskiyou County for payment, and place the amount received in the hospital fund of the county.

§ 2. The board of commissioners appointed in accordance with the provisions of section six of the act to which this is supplemental, are hereby authorized and empowered to discharge the same duties as are now required by law of boards of supervisors and county clerks in the registering of votes.

§ 3. The board of supervisors of Modoc County may, when they levy state and county taxes, levy a tax not to exceed eight (8) cents upon each one hundred dollars of taxable property in said county, which shall be collected as other state and county taxes are collected, and shall be set apart as a building fund, and used only in the erection of the necessary county buildings. After the first day of November, A. D. eighteen hundred and seventy-four, the member of the board of supervisors having the shortest term to serve shall be president of the board, unless such member shall have been elected to fill a vacancy.

§ 4. The provisions of an act entitled an act concerning hogs found running at large in the counties of Colusa, Tehama, Butte, Sonoma, and Napa, approved March twenty-sixth, eighteen hundred and fifty-seven, are hereby extended and made applicable to such portions of the county of Modoc as have been surveyed under authority of the United States, and shall be in force in said county from the first day of May to the first day of October of each and every year.

§ 5. This act shall be in force and effect from and after its passage.

Section 4 of the foregoing act related to animals running at large, and was repealed as to Adin Township by Stats. 1877-8, 111, ch. XCIX. See tits. **Animals**; **Fences**.

MOKELUMNE HILL.

See tits. **Lodi**; **Municipal Corporations**.

MONGOLIANS.

See tit. **Asiatics**.

MONO BASIN.

See tit. **Roads and Highways**.

MONO COUNTY.

See tit. **Animals**.

MONTEREY—CITY.

Granting to the city of Monterey the title to the water front of said city in the Bay of Monterey.

(Stats. 1867-8, 202, ch. CCX; amended 1903, 290, ch. CCXXXVII.)

§ 1. The state of California does hereby cede, grant and relinquish forever, unto the municipal corporation called the city of Monterey, all the right, title, interest and estate whatsoever of the said state of California, of, in and to, all

the real estate, lands and property situate within the corporate limits of said corporation, and bounded and described as follows, to wit: Commencing at a point where the line of the corporation limits of said city strikes the Bay of Monterey on the north, and running along the entire water front thereof in a southerly and westerly direction to the point where the southern or western boundary of said city strikes the said bay, comprising the entire water front of said city, out to a depth of twenty feet at low tide water; provided, that the rights of all persons, if any existing, under any title derived from said state of California, in and to any part of said property and premises hereby ceded and granted, be and the same are hereby reserved from the operation of this act.

§ 2. The entire water front hereby granted shall be held by trustees of the city of Monterey and their lawful successors forever, for the use and benefit of said city, and shall not be subject to execution upon any judgment against said city, but may be, from time to time let or leased for a term not exceeding fifty years, as the trustees thereof or their successors may deem to be most advantageous to said city; provided, that not more than three hundred feet frontage of said water front shall be leased to one lessee; and provided, further, that at and upon any wharf erected or built upon property so leased any and all vessels shall have a right to dock, land and discharge passengers or merchandise upon payment to such lessee or lessees of reasonable dockage and wharfage. The dockage and wharfage to be regulated and prescribed in such lease, and as may, thereafter, from time to time be determined by ordinance of said city of Monterey or by statute of the state of California. (Amendment, Stats. 1903, 290.)

§ 3. This act shall take effect from and after its passage.

See tits. *Colton Hall*; *Monterey County*; *Municipal Corporations*.

MONTEREY—COUNTY.

To legalize and make valid copies of certain records of the county of Monterey.
(Stats. 1877-8, 736, ch. CCCCLXXIV.)

§ 1. The duplicate or copy of book G of deeds of the records of the county of Monterey, made, compared, and certified to as correct, by Jacob R. Lees, county recorder of said county, under the order of the board of supervisors of said county, which duplicate or copy is now deposited in the county recorder's office of the said county, shall, on and after the passage of this act, be deemed, considered, and received in evidence, with the same force and effect as if the same was the original book G of the records of said county, and all the instruments therein copied and recorded, and all copies thereof duly certified or proved, shall have the same force and effect as other copies of the records of the office of said county recorder.

§ 2. This act shall take effect and be in force from and after its passage.

MONTEREY—COUNTY.

To provide for purchase of site, and erection of court-house and jail.
(Stats. 1877-8, 28, ch. XXIV; amended 1877-8, 1034, ch. DCLXVII.)

The bonds issued under the foregoing matured in 1903, and the publication of the statute is omitted.

MONTEREY—CUSTOM-HOUSE.

To provide for the appointment of a board of Monterey custom-house trustees and for the acquisition of the control of the Monterey custom-house property, and providing for an appropriation for the preservation, protection, and improvement of said property.

(Stats. 1901, 516, ch. CLXI.)

§ 1. The governor shall appoint five trustees, to be known as the board of Monterey custom-house trustees, at least three of whom shall be residents of Monterey County, and he shall designate at the time of such appointment their respective terms of office, in accordance with the following classification, viz.: three of whom shall serve for two years, and two of said trustees shall serve for four years, from the time of their appointment. Their successors shall be appointed by the governor, and shall hold their offices for the term of four years and until their successors are appointed and qualified. The said trustees shall qualify by taking the usual oath of office.

§ 2. The said board of Monterey custom-house trustees are hereby authorized to receive and accept from the grand parlor of the Native Sons of the Golden West, a corporation, without cost to the state, the possession and control and the lease from the United States of America, of the site and grounds, known as the Monterey custom-house, situated in the town of Monterey, county of Monterey, state of California. Said lease to be assigned by the said corporation to the state of California with the consent of the United States of America.

§ 3. The said board of Monterey custom-house trustees shall provide for the preservation, protection, and improvement of the said Monterey custom-house, in such way and manner as in their judgment may seem best and proper. Said board of trustees shall, immediately upon their appointment, organize by the election of a president, a secretary, and a treasurer from their number, and which officers shall serve without compensation; and the said president and secretary are hereby authorized, when empowered by said board, to do and perform all things pertaining to the duties of said board.

§ 4. The sum of forty-two hundred (\$4200) dollars (three thousand (\$3000) dollars of which shall be available for the purposes hereinabove set forth immediately after the passage of this act; six hundred (\$600) dollars of which shall be expended in the fifty-third fiscal year and the remaining six hundred (\$600) dollars in the fifty-fourth fiscal year) is hereby appropriated out of the general fund of the state treasury for the purpose of carrying out the provisions of section three of this act. The controller is hereby authorized to draw his warrant in favor of said board for the money herein made payable, and the treasurer is directed to pay the same.

§ 5. This act shall take effect and be in force from and after the first day of January, nineteen hundred and two.

See tit. **Historic Property.**

MORMON CHANNEL.

See tit. Public Works.

MORTGAGE FORECLOSURE.

See tit. Attorney Fees.

MUSEUMS.

See tit. Art Galleries—Libraries.

MUTUAL BENEFIT SOCIETIES.

See tit. Corporations.

MOTOR VEHICLES—REGISTRATION, ETC.

To regulate the operation of motor vehicles on public highways, and making an appropriation for the purpose of carrying out the objects of this act.

(Stats. 1905, 816, ch. DCXII.)

§ 1. Subdivision 1. The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "Motor vehicle" shall include all vehicles propelled by any power other than muscular power, provided that nothing herein contained shall, except the provisions of subdivisions three, four and five of section three and subdivision one of section four of this act, apply to motor cycles, motor bicycles, traction engines or road rollers; (2) "public highways" shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway or public place in any county, or incorporated city and county, city or town; (3) "closely built up" shall mean (a) the territory of any county or incorporated city and county, city or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of any county or incorporated city and county, city or town contiguous to a public highway not devoted to business, where for not less than one quarter of a mile the dwelling-houses on such highway average less than one hundred feet apart, provided that the local authorities having charge of such highway shall have placed conspicuously thereon at both ends of such closely built up section signs of sufficient size to be easily readable by a person using the highway, bearing the words "Slow down to — miles," inserting in the blank space the number of miles to which the speed is to be reduced, and also an arrow pointing in the direction where the speed is to be reduced; (4) "local authorities" shall include all boards of supervisors, trustees or councils, committees and other public officials of counties, or incorporated cities and counties, cities or towns; (5) "chauffeur" shall mean any person operating a motor vehicle as mechanic, employee or for hire.

§ 2. Subdivision 1. Every person hereafter acquiring a motor vehicle shall, for every vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered including the name of the maker, factory number, style of vehicle and motor power on a blank to be prepared and furnished by such secretary of state for that purpose; the filing fee shall be two dollars.

Subd. 2. The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book or index to be kept for that purpose, and assign it a distinctive number.

Subd. 3. The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form approximately two inches in diameter, and have stamped thereon the words "Registered motor vehicle, No. —, State of California," with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle, to which such number has been assigned.

Subd. 4. If the vehicle has been previously registered, the certificate issued thereon shall be returned to the secretary of state and in lieu thereof such secretary shall issue to said owner a registration seal containing the number of such previous registration upon payment of a fee of one dollar. Upon the sale of a motor vehicle, the vendor, except a manufacturer or dealer, shall within ten days return to the secretary of state the registration seal affixed to such vehicle.

Subd. 5. Every motor vehicle shall also at all times have the number assigned to it displayed on the back of such vehicle in such manner as to be plainly visible, the numbers to be in arabic numerals, black on white background, each not less than three inches in height, and each stroke to be of a width not less than half an inch, and also as a part of such number the abbreviated name of the state in black on white ground, such letters to be not less than one inch in height.

Subd. 6. A manufacturer of or dealer in motor vehicles shall register one vehicle of each style or type manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with subdivisions one, three, five and eight of this section, until such vehicle shall be sold or let for hire. Nothing in this subdivision shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

Subd. 7. No motor vehicle shall be used or operated upon the public highways after thirty days after this act takes effect which shall display thereon a registration seal or number belonging to any other vehicle, or a fictitious registration seal or number.

Subd. 8. No motor vehicle shall be used or operated on the public highways after thirty days after this act takes effect, unless the owner shall have complied in all respects with this section, except that any person purchasing a motor vehicle from a manufacturer, dealer or other person after this act goes into effect shall be allowed to operate such motor vehicle upon the public highways for a period of five days after the purchase and delivery thereof, provided that during such period such motor vehicle shall bear the registration number and seal of the previous owner under which it was operated or might have been operated by him.

Subd. 9. The provisions of this section shall not apply to motor vehicles owned by non-residents of this state and only temporarily within this state,

provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as in this section provided.

§ 3. Subdivision 1. No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or the safety of any property; or in any event on any public highway where the territory contiguous thereto is closely built up, at a greater rate than one mile in six minutes, or elsewhere in any incorporated city and county, city or town at a greater rate than one mile in four minutes, or elsewhere outside of any incorporated city and county, city or town, at a greater rate than one mile in three minutes; subject, however, to the other provisions of this act.

Subd. 2. Upon approaching a bridge, dam, sharp curve, or steep descent, and also in traversing such bridge, dam, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in fifteen minutes, and upon approaching a crossing of intersecting highways at a speed not greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

Subd. 3. Upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other draft animals, being ridden, led or driven thereon, a person operating a motor vehicle shall give reasonable warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other draft animals, to prevent frightening the same.

Subd. 4. A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding, leading or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and, if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided that, in case such horse or animal appears badly frightened or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure safety to others.

Subd. 5. In case of accident to a person or property on the public highways, due to the operation thereon of a motor vehicle, the person operating such vehicle shall stop, and, upon request of a person injured, or any person present, give such person his name and address, and, if not the owner, the name and address of such owner.

Subd. 6. Local authorities may, notwithstanding the other provisions of this section, set aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions for the safety of the public.

§ 4. Subdivision 1. Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicles, the person so operating such motor vehicle shall reasonably turn the same to the right of the center of such highway so as

to pass without interference. Any such person so operating a motor vehicle, shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left. Nothing in this subdivision shall, however, be construed as limiting the meaning or effect of the provisions of section three of this act.

Subd. 2. Every motor vehicle, while in use on a public highway shall be provided with good and efficient brakes, and also with suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one hour after sunset to one hour before sunrise, two lamps showing white lights visible within a reasonable distance in the direction towards which such vehicle is proceeding, showing the registered number of the vehicle in separate arabic numerals, not less than one inch in height and each stroke to be not less than one quarter of an inch in width, and also a red light visible in the reverse direction.

Subd. 3. Subject to the provisions of this act, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with section two of this act from the free use of such highways, except such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a slower rate of speed than herein specified at which such vehicles may be operated, or the use of the public highways, contrary or inconsistent with the provisions of this act; and all such ordinances, rules or regulations now in force are hereby declared to be of no validity of [or] effect; provided, however, that the local authorities of incorporated cities and counties, cities and towns may limit by ordinance, rule or regulation hereafter adopted the speed of motor vehicles on the public highways, on condition that such ordinance, rule or regulation shall also fix the same speed limitation for all other vehicles, such speed limitation not to be in any case less than one mile in six minutes and on further condition that such incorporated city and county, city or town shall also have placed conspicuously on each main public highway where the boundary of such municipality crosses the same and on every main highway where the rate of speed changes, signs of sufficient size to be easily readable by a person using the highway, bearing the words "Slow down to — miles" (the rate being inserted) and also an arrow pointing in the direction where the speed is to be reduced or changed, and also on further condition that such ordinance, rule or regulation shall fix the penalties for violation thereof similar to and no greater than those fixed by such local authorities for violation of speed limitation by any other vehicles than motor vehicles, which penalties shall during the existence of the ordinance, rule or regulation supersede those specified in section six of this act, and provided further that nothing in this act contained shall be construed as limiting the power of local authorities to make, enforce and maintain further

ordinances, rules or regulations affecting motor vehicles which are offered to the public for hire.

Subd. 4. Local authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated in any public park or parkways, but in that event, must be signs at each entrance of such park and along such parkway, conspicuously [to] indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for burial of the dead.

Subd. 5. Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil suit for damages by reason of injuries to person or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employee or agent.

§ 5. Subdivision 1. Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the secretary of state, on a blank to be supplied by such secretary, a statement which shall include his name and address and the trade name and motive power of the motor vehicle or vehicles he is able to operate, and shall pay a registration fee of two dollars.

Subd. 2. The secretary of state shall thereupon file such statement in his office, register such chauffeur in a book or index to be kept for that purpose, and assign him a number.

Subd. 3. The secretary of state shall forthwith, upon such registration and without other fee, insure and deliver to such chauffeur a badge of aluminum or other suitable metal which shall be oval in form, and the greater diameter of which shall not be more than two inches, and such badge shall have stamped thereon the words: "Registered Chauffeur, No. —, State of California," with the registration number inserted therein; which badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways.

Subd. 4. No chauffeur, having registered as herein provided, shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person, or a fictitious badge.

Subd. 5. No person shall operate a motor vehicle as a chauffeur upon the public highways after thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this section.

§ 6. Subdivision 1. The violation of any of the provisions of this act by any owner, chauffeur or operator of any motor vehicle, shall be deemed a misdemeanor, punishable, upon conviction thereof, by a fine not exceeding one hundred dollars for the first offense, and punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding thirty days, or both for a second offense, and punishable by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars and imprisonment not exceeding thirty days for a third or subsequent offense.

Subd. 2. In case the owner of a motor vehicle shall be taken into custody because of a violation of any provision of this act, he shall be forthwith taken before the nearest justice of the peace, or police judge or court, and be entitled to an immediate hearing; and if such hearing cannot then be had, be released from custody on giving his personal undertaking to appear and answer for such

violation, at such time and place as shall then be ordered, secured by the deposit of a sum equal to the maximum fine for the offense with which he is charged, or in lieu thereof, by leaving the motor vehicle owned by such person, with such justice of the peace, police judge or clerk of such police court, or, in case such justice of the peace or police judge is not accessible, be forthwith released from custody on giving his name and address to the officer making such arrest, and depositing with such officer a sum equal to the maximum fine for the offense for which such arrest is made, or in lieu thereof, by leaving the motor vehicle owned by such person with such officer; provided, that in such case the officer making such arrest shall give a receipt in writing for such sum or vehicle and by indorsement on such receipt notify such person to appear before the nearest justice of the peace or police judge or court, on the following day, naming him or it and specifying the place and hour. In case security shall be deposited, as in this subdivision provided, it shall be returned to the person depositing forthwith on such person being admitted to bail, on the surrender of any receipt or other voucher given at the time of such deposit. If such person shall fail to appear before the magistrate or court at the time ordered or specified, the amount deposited by him may be declared forfeited and disposed of as money deposited for bail in other cases, or the motor which may be so left by him may be sold at public auction by order of the justice of the peace, or police judge or court, and from the amount realized upon such sale, a sum equal to the maximum fine for the offense charged shall be disposed of in like manner, and the surplus, if any, after deducting all expenses incurred in keeping or sale of such motor vehicle be returned to such owner on demand, but no such forfeiture and disposition of such security shall in anywise impair the jurisdiction of such justice of the peace, police judge or court to appear and determine any such charge made against such owner, or to inflict, upon conviction thereof, any punishment prescribed by this act.

§ 7. The amount of fees received by the secretary of state, as in this act provided, shall be paid into the state treasury, to be paid into the general fund of the state.

§ 8. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty thousand dollars (\$20,000), for the purpose of carrying out the objects of this act, to be used by the secretary of state in the employment of the necessary clerk or clerks; the purchase of the necessary stationery, books, and postage; for the necessary incidental expenses; for the purchase of the necessary seals and badges; for printing, ruling, binding, and all other work performed and materials used by the state printing office, to be used during the balance of the fifty-sixth, and during the fifty-seventh and fifty-eighth fiscal years. The state controller is hereby directed to draw his warrant for any claim against said sum, the same having been approved by the state board of examiners, and the state treasurer is hereby directed to pay the same.

§ 9. All acts and parts of acts inconsistent herewith or contrary hereto are, so far as they are inconsistent or contrary, hereby repealed.

§ 10. This action [act] shall take effect immediately.

See tit. Bicycles, Tricycles, etc.

MUNICIPAL CORPORATIONS—CLASSIFICATION.

To provide for the classification of municipal corporations.

(Stats. 1883, 24, ch. XVII; amended 1897, 218, ch. CLXII; 1897, 421, ch. CCLXII; 1899, 141, ch. CII; 1901, 94, ch. LXXX.)

[For particular towns and cities, see note at end of this statute.]

§ 1. All municipal corporations within the state are hereby classified as follows: Those having a population of more than two hundred thousand shall constitute the first class; those having a population of more than one hundred thousand and not exceeding two hundred thousand shall constitute the first and one-half class; those having a population of more than thirty thousand and not exceeding one hundred thousand shall constitute the second class; those having a population of more than fifteen thousand and not exceeding thirty thousand shall constitute the third class; those having a population of more than ten thousand and not exceeding fifteen thousand shall constitute the fourth class; those having a population of more than three thousand and not exceeding ten thousand shall constitute the fifth class; those having a population of not exceeding three thousand shall constitute the sixth class. [Amendment, Stats. 1901, 94.]

§ 2. The census taken under the direction of the Congress of the United States in the year eighteen hundred and eighty, and every ten years thereafter, shall be the basis upon which the respective populations of said municipal corporations shall be determined, unless a direct enumeration of the inhabitants thereof be made, as in this act provided, in which case such direct enumeration shall constitute such basis.

§ 3. The council, board of trustees, or other legislative body of any municipal corporation, may at any time cause an enumeration of the inhabitants thereof to be made, and in such manner and under such regulations as such body may, by ordinance, direct. If upon such enumeration it shall appear that such municipal corporation contains a sufficient number of inhabitants to entitle it to reorganize under a higher or lower class, the common council, trustees, or other legislative body, shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors thereof, submit to the electors of such city or town, at the next general election to be held therein, the question whether such city or town shall reorganize under the laws relating to municipal corporations of the class to which such city or town may belong. And thereupon such proceedings shall be had and election held, as provided in the general law for the reorganization, incorporation, and government of municipal corporations. If a majority of the votes cast at such election shall be in favor of such reorganization, thereafter such officers shall be elected as are, or may be, and at the time prescribed by law for municipal corporations of the class having the population under which such reorganization is had, and from and after the qualification of such officers, such corporation shall belong to such class. Whenever the result of such enumeration shall have been declared by the council, board of trustees, or other governing body, and entered in the minutes of such body, thereupon the number of such inhabitants so ascertained shall be deemed the number of the inhabitants of such city for all the purposes of this act, and for the purposes of legislation affecting municipalities. The clerk of the council, board of trustees, or other

governing body of such city shall cause a certified copy of such minute order to be filed with the board of supervisors of the county wherein such city is situated. [Amendment, Stats. 1899, 141.]

People vs. Gunn, 85 Cal. 238, 243, 24 Pac. Rep. 718; Darcey vs. Mayor of San Jose, 104 Cal. 642, 647, 38 Pac. Rep. 500; Denman vs. Broderick, 111 Cal. 96, 104, 43 Pac. Rep. 516; Ex parte Giambonini, 117 Cal. 573, 49 Pac. Rep. 732; Rauer vs. Williams, 118 Cal. 401, 403, 50 Pac. Rep. 691; In re Mitchell, 120 Cal. 384, 389, 52 Pac. Rep. 799; Ex parte Jackson, 143 Cal. 564-574, 77 Pac. Rep. 457.

MUNICIPAL CORPORATIONS—GOVERNMENT.

To provide for the organization, incorporation and government of municipal corporations.

(Stats. 1883, 93, ch. XLIX; amended Stats. 1885, 127, ch. CXXXVII; 1885, 134, ch. CXLIV; 1887, 12, ch. XIV; 1889, 371, ch. CCLI; 1889, 389, ch. CCLVIII; 1891, 21, ch. XXXV; 1891, 28, ch. XLIII; 1891, 54, ch. LVIII; 1891, 55, ch. LIX; 1891, 114, ch. CXII; 1891, 233, ch. CLXIII; 1893, 299, ch. CCXV; 1895, 24, ch. XV; 1895, 159, ch. CLII; 1895, 266, ch. CCIV; 1897, 89, ch. LXXXVII; 1897, 175, ch. CXL; 1897, 183, ch. CXXII; 1897, 196, ch. CXXXVI; 1897, 403, ch. CCLVII; 1899, 98, ch. LXXXIII; 1901, 12, ch. XXII; 1901, 18, ch. XXVI; 1901, 70, ch. LIV; 1901, 269, ch. CVII; 1901, 293, ch. CXXXI; 1901, 656, ch. CCXVIII; 1903, 40, ch. XXXVIII; 1903, 93, ch. LXXXVI; 1903, 135, ch. CXXIV; 1903, 336, ch. CCXLIX.)

CHAPTER I.

ORGANIZATION OF MUNICIPAL CORPORATIONS.

§ 1. Any portion of a county containing not less than five hundred inhabitants, and not incorporated as a municipal corporation, may become incorporated, under the provisions of this act, and when so incorporated, shall have the powers conferred, or that may be hereafter conferred, by law, upon municipal corporations of the class to which the same may belong.

§ 2. A petition shall first be presented to the board of supervisors of such county, signed by at least fifty of the qualified electors of the county, residents within the limits of such proposed corporation, and the affidavit of three qualified electors residing within the proposed limits, filed with the petition, shall be prima facie evidence of the requisite number of signers. The petition shall set forth and particularly describe the proposed boundaries of such corporation, and state the number of inhabitants therein, as nearly as may be, and shall pray that the same may be incorporated under the provisions of this act. Such petition shall be presented at a regular meeting of such board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented. When such petition is presented, the board of supervisors shall hear the same, and may adjourn such hearing from time to time, not exceeding two months in all, and on the final hearing, shall make such changes in the proposed boundaries as they may find to be proper and shall establish and define such boundaries, and shall ascertain and determine how many inhabitants reside within such boundaries; provided, that any changes made by said board of supervisors shall not include any territory outside of the boundaries described in such petition. The boundaries so estab-

lished by the board of supervisors shall be the boundaries of such municipal corporation until by action, authorized by law for the annexation of additional territory to, or the taking of territory from, said municipal corporation, such boundaries shall be changed; provided, whenever it shall appear to the board of supervisors that the boundaries of any municipal corporation have been incorrectly described, the board shall direct the county surveyor to ascertain and report a description of the boundaries. The board of supervisors shall, at their first regular meeting after the filing of the report of the county surveyor, cause notice to be published in some newspaper published in the county, that the report will be acted upon at the next regular meeting of the board, and at said meeting the board shall ratify the report of the county surveyor, with such modifications as they shall deem necessary, and the boundaries so established shall be the legal boundaries of said municipal corporation. They shall then give notice of an election to be held in such proposed corporation for the purpose of determining whether the same shall become incorporated. Such notice shall particularly describe the boundaries so established, and shall state the name of such proposed corporation, and the number of inhabitants so ascertained to reside therein, and the same shall be published for at least two weeks prior to such election, in a newspaper printed and published within such boundaries, or posted for the same period in at least four public places therein. Such notice shall require the voters to cast ballots, which shall contain the words "For incorporation," or "Against incorporation," or words equivalent thereto, and also the names of persons voted for to fill the various elective municipal offices prescribed by law for municipal corporations of the class to which such proposed corporation will belong. [Amendment, Stats. 1889, 371.]

§ 3. Such elections shall be conducted in accordance with the general election laws of the state, and no person shall be entitled to vote thereat unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided within the limits of such proposed corporation for at least sixty days next preceding such election. The board of supervisors shall meet on the Monday next succeeding such election, and proceed to canvass the votes cast thereat; and if, upon such canvass, it appears that the majority of the votes cast are for the incorporation, the board shall, by an order entered upon their minutes, declare such territory duly incorporated as a municipal incorporation of the class to which the same shall belong, under the name and style of the city (or town, as the case may be) of — (naming it), and shall declare the person[s] receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. Said board shall cause a copy of such order, duly certified, to be filed in the office of secretary of state, and from and after the date of such filing, such incorporation shall be deemed complete, and such officers shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices respectively only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified; and it shall not be necessary in any action, civil or criminal, to plead and prove the organization or existence of such corporation, and the courts shall take judicial cognizance thereof without proof. [Amendment, Stats. 1889, 372.]

§ 4. The common council, board of trustees, or other legislative body of any

city and county, city, or town, organized or incorporated prior to the first day of January, eighteen hundred and eighty, at twelve o'clock, meridian, shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors of such city and county, city or town, as shown by the vote cast at the last municipal election held therein, submit to the electors of such city and county, city, or town, at the next general election to be held therein, the question whether such city and county, city, or town shall become organized under the general laws of the state relating to municipal corporations of the class to which such city and county, city, or town may belong. Notice that such question will be so submitted shall be given by publication in a newspaper printed and published in such city and county, city, or town; or if there be no newspaper printed and published therein, by printing and posting the same in at least four public places therein, including the place or places where such election is to be held. Such notice shall be so published or posted for at least four weeks prior to such election, and shall also be made a part of the general election notice. Such notice shall distinctly state the proposition to be so submitted, and shall designate the class to which such corporation belongs, and shall invite the electors thereof to vote upon such proposition by placing upon their ballots the words "For reorganization," or "Against reorganization," or words equivalent thereto. The votes so cast shall be canvassed at the time and in the manner in which the other votes cast at such election are canvassed. If, upon such canvass, a majority of all the electors voting at such election shall be found to have voted for such reorganization, the said council, board, or other legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote; which abstract shall show the whole number of electors voting at such election, the number of votes cast for reorganization, and the number of votes cast against reorganization. Said council, board, or other legislative body shall immediately thereafter call a special election for the election of the officers required by law to be elected in corporations of the class to which such city and county, city, or town shall belong, which election shall be held within six weeks thereafter. Such election shall be held in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the council, board, or other legislative body calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporation shall be deemed to be organized under such general laws, under the name and style of the city and county (or city or town as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same may belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or town, and until their successors are elected and qualified.

§ 5. Any city and county, city or town organized under the provisions of section four of this act shall, for all purposes, be deemed and taken to be in law the identical corporation theretofore incorporated and existing; and such reor-

ganization shall in no wise affect or impair the title to any property owned or held by such corporation, or in trust therefor, or any debts, demands, liabilities, or obligations existing in favor of or against such corporation, or any proceeding then pending; nor shall the same operate to repeal or affect in any manner any ordinance theretofore passed or adopted and remaining unrepealed, or, to discharge any person from any liability, civil or criminal, then existing, for any violation of any such ordinance; but such ordinances, so far as the same are not in conflict with such general laws, shall be and remain in force until repealed or amended by competent authority; provided, that proceedings theretofore commenced shall, after such reorganization, be conducted in accordance with the provisions of such general laws.

§ 6. As soon as the officers elected under the provisions of either section three or section four of this act shall have qualified in accordance with law, all persons, if any, then in possession of the offices of such corporation, shall immediately quit and surrender up the possession of such offices and shall deliver to the officers so elected all moneys, books, papers, or other things in their official custody, and all property of such corporation in their hands, notwithstanding that the terms of office for which they were respectively elected or appointed may not then have expired; and all officers, boards, and persons holding any property in trust for any public use, the administration of which use is vested by such general laws in such corporation, or in any of its officers, shall, upon demand from such corporation or such officers, convey such property to such corporation or such officers, by good and sufficient deeds of conveyance, in trust for such public use.

§ 7. The boundaries of any municipal corporation may be altered, and new territory included therein, after proceedings had as required in this section. The council, board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such territory shall be annexed to such corporation and become a part thereof. Such question shall be submitted at a special election, to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation, and also in a newspaper printed and published outside of such corporation, and in the county in which such territory so proposed to be annexed is situated, in both cases for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be annexed; and the electors shall be invited thereby to vote upon such proposition, by placing upon their ballots the words "For annexation," or "Against annexation," or words equivalent thereto. Such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be annexed, which place or places shall be that or those usually used for that purpose within such territory, if any such there be. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat.

The votes cast in such territory so proposed to be annexed shall be canvassed separately, and if it shall appear upon such canvass that a majority of all the votes cast in such territory and a majority of all the votes cast in such corporation shall be for annexation, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote; which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, the number of votes cast in each for annexation, and the number of votes cast in each against annexation. From and after the date of the filing of such abstract, such annexation shall be deemed complete, and thereafter such territory shall be and remain a part of such corporation; provided, that no property within such territory so annexed shall ever be taxed to pay any portion of any indebtedness of such corporation, contracted prior to or existing at the date of such annexation. If the territory so proposed to be annexed consists, in whole or in part, of any municipal corporation, or part thereof, such territory shall not be annexed under the provisions of this section.

§ 8. Two or more contiguous municipal corporations may become consolidated into one corporation after proceedings had as required in this section. The council, board of trustees, or other legislative body of either of such corporations shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors of each of such corporations, as shown by the votes cast at the last municipal election held in each of such corporations, submit to the electors of each of such corporations the question whether such corporations shall become consolidated into one corporation. Such legislative body shall designate a day upon which a special election shall be held in each of such corporations to determine whether such consolidation shall be effected, and shall give written notice thereof to the council, board of trustees, or other legislative body of each of the other of such corporations, which notice shall designate the name of the proposed new corporation. It shall thereupon be the duty of such legislative body of each of the corporations so proposed to be consolidated to give notice of such election, by publication in a newspaper printed and published in such corporation, for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, the name of the corporations so proposed to be consolidated, the name of the proposed new corporation, and the class to which such proposed new corporation will belong; and shall invite the electors to vote upon such proposition by placing upon their ballots the words "For consolidation," or "Against consolidation," or words equivalent thereto. The legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of such corporations having the greatest population, as shown by the last federal census, on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in each of such corporations shall be canvassed separately; and if it shall appear upon such canvass that a majority of the votes cast in each of such corporations shall be for consolidation, such joint convention, by an order entered upon their minutes, shall cause the clerk, or other officer performing the duties of clerk of the legislative body at whose place of meeting such joint convention is held, to make a certified abstract of such vote; which abstract shall

show the whole number of electors voting at such election in each of such corporations, the number of votes cast in each for consolidation, and the number of votes cast in each against consolidation. Such abstract shall be recorded upon the minutes of the legislative body of each of such corporations; and immediately upon the record thereof, it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies to transmit to the secretary of state a certified copy of such abstract. Immediately after such filing, the legislative body of that one of such corporations having the greatest population, as shown by the last federal census, shall call a special election, to be held in such new corporation for the election of the officers required by law to be elected in corporations of the class to which such new corporation shall belong, which election shall be held within six months thereafter. Such election shall be called and conducted in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the legislative body so calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporations shall be deemed to be consolidated into one corporation, under the name and style of the city and county (or city or town as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same shall so belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or towns, and until their successors are elected and qualified. All the provisions of sections five and six of this act shall apply to such corporation and to the officers thereof; provided, that no property within either of the former corporations so consolidated shall ever be taxed to pay any portion of any indebtedness of either of the other of such former corporations contracted prior to or existing at the date of such consolidation.

§ 9. The city clerk of each municipal corporation and the city recorder of each municipal corporation where there is no city clerk shall have the powers and shall perform the duties of a registrar within such municipality which are prescribed and required by the provisions of an act entitled, "An act for the registration of deaths, the issuance and registration of burial and disinterment permits, and the establishment of registration districts in counties, cities and counties, cities, and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and fixing penalties for the violation of this act." [New section added, Stats. 1905, 408.]

CHAPTER II.

MUNICIPAL CORPORATIONS OF THE FIRST CLASS.

ARTICLE I.—GENERAL POWERS.

§ 19. Every municipal corporation of the first class shall be entitled the city and county of —, or the city of — (naming it), as the case may be, and by such name shall have perpetual succession, may sue and be sued in all courts and

places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

ARTICLE II.—GENERAL PROVISIONS RELATING TO OFFICERS.

§ 20. There shall be elected by the qualified voters of such city, or city and county, at the general state election to be held on the first Tuesday after the first Monday of the month of November in each even-numbered year, the following officers, viz.: A mayor, sheriff, auditor, tax collector, treasurer, county clerk, recorder, district attorney, city or city and county attorney, coroner, surveyor, superintendent of streets, twelve school directors, six justices of the peace, public administrator, and two police judges, who shall hold office for two years. The terms of such officers shall commence on the first Monday after the first day of January next following their election. Also, twelve aldermen, in the manner, and who shall hold office, as provided in section forty-one of this chapter, and twelve assistant aldermen, who shall hold office as provided in section forty-three of this chapter.

§ 21. The mayor, sheriff, county clerk, county recorder, treasurer, district attorney, auditor, tax collector, assessor, city or city and county attorney, superintendent of streets, and surveyor shall keep public offices, which shall be kept open for the transaction of business every day in the year except Sundays, Christmas, New Year's, Fourth of July, Thanksgiving, the twenty-second of February, and on any days during which a general election shall be held, between the hours of nine o'clock a. m. and five o'clock p. m.

§ 22. Whenever vacancies occur in any of the elective offices of such city, or city and county, and provision is not otherwise made in this or some other act for filling the same, the mayor shall appoint, subject to the confirmation of the board of aldermen, a person to discharge the duties of such office until the next election, when the vacancy shall be filled by election for the unexpired term. All persons so appointed shall, before entering upon their duties, take the oath of office, and give bonds as required by law.

§ 23. No fees or compensation to be paid out of the treasury, other than those expressly allowed in this chapter, shall be allowed or received by any officer of such city, or city and county, or of any district, or other subdivision thereof; nor shall any allowance or provision be made for them, or any of them, at the public expense beyond the fixed compensation herein provided under the name of office rent, fuel, lights, stationery, contingencies, extra services, or otherwise, except the compensation or percentage allowed to the tax collector and to the assessor in the collection of poll-taxes, and except that the necessary and proper books, stationery, and official blanks may, at the discretion of the municipal council, be purchased and supplied for all the courts of such city, or city and county, its officers, municipal council, and other boards, and officers, the expense whereof, when the amount in each particular case shall have been previously authorized and fixed by the municipal council, may be paid out of the general fund, upon demand upon the treasury duly audited, as in this chapter provided.

§ 24. All officers of such city, or city and county, must, before they can enter upon their official duties, give a bond as required by law. The bonds and sureties

of such officers must be approved by the president of the board of aldermen, auditor, and a judge of the superior court, in and for such city and county, or in and for the county in which such city may be situated. When the amount of such official bond is not fixed by law, it shall be fixed by the municipal council. No banker residing or doing business in such city, or city and county, nor any such banker's partner, clerk, employee, agent, attorney, father, or brother, shall be received as surety for the treasurer, mayor, sheriff, auditor, or any officer having the collection, custody, or disbursement of money. No person can be admitted as surety on any such bond unless he be worth, in fixed property, including mortgages, situated in such city, or city and county, the amount of his undertaking over and above all sums for which he is already liable, or in any manner bound, whether as principal, indorser, or security, or whether such prior obligation or liability be conditional or absolute, liquidated, or unliquidated, certain or contingent, due or to become due. All persons offered as sureties on official bonds must be examined on oath touching their qualifications. The official bond of the auditor shall be filed and kept in the office of the clerk of such city, or city and county. All other official bonds shall be filed and kept in the office of the auditor; provided that the bonds and sureties of the mayor must be approved by the chairman of the house of assistant aldermen, auditor, and a judge of the superior court in and for such city and county, or in and for the county in which such city may be situated; and that the bonds and sureties of the auditor must be approved by the president of the board of aldermen, the chairman of the house of assistant aldermen, and a judge of the superior court in and for such city and county, or in and for the county in which such city may be situated.

§ 25. The compensation or salary of any officer provided for in this chapter shall not be increased or reduced after his election or during his term of office.

§ 26. The salaries of the officers, clerks, deputies, or employees of such city and county, except as otherwise in this chapter provided, shall be as follows, and payable in monthly instalments at the end of each and every month, viz.:

1. The salary of the mayor shall be four thousand dollars per annum; he may appoint a clerk, to be known as the mayor's clerk, whose salary shall be one thousand eight hundred dollars per annum.

2. The salary of the sheriff shall be six thousand dollars per annum; he may appoint one under-sheriff, whose salary shall be two thousand four hundred dollars per annum; one bookkeeper, whose salary shall be two thousand four hundred dollars per annum; he may appoint twenty-five deputies, each of whom shall receive a salary of one thousand six hundred dollars per annum, one of which said deputies shall be assigned to and perform the duties of assistant bookkeeper; sixteen deputies, whose salaries shall be one thousand five hundred dollars per annum; one counsel, who shall be an attorney of the supreme court of the state, whose salary shall be one thousand eight hundred dollars per annum; one matron, whose salary shall be nine hundred dollars per annum; one driver of prison wagon, whose salary shall be nine hundred dollars per annum.

3. The salary of the auditor shall be four thousand dollars per annum; he may appoint one deputy, whose salary shall be two thousand four hundred dollars per annum; and two clerks at a salary of one thousand six hundred dollars per annum each.

4. The salary of the treasurer shall be four thousand dollars per annum; he

may appoint one chief deputy, whose salary shall be two thousand four hundred dollars per annum, and one deputy, whose salary shall be two thousand one hundred dollars per annum.

5. The salary of the tax collector shall be four thousand dollars per annum; he may appoint one chief deputy, one cashier, each of whom shall receive a salary of two thousand dollars per annum, and ten permanent deputies, whose salary shall be one thousand six hundred dollars per annum each.

6. The salary of the assessor shall be four thousand dollars per annum; he may appoint one chief office deputy, one chief field deputy, and one head draftsman, each of whom shall receive a salary of two thousand dollars per annum; an assistant draftsman, who shall receive a salary of one thousand eight hundred dollars per annum; and eleven office deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum. He may also appoint such additional deputies as may be allowed by the municipal council, at salaries not to exceed five dollars per day each, for such time as they may be employed.

7. The salary of the recorder shall be three thousand dollars per annum; he may appoint one chief deputy, whose salary shall be two thousand four hundred dollars per annum, and two deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum; also, two porters, who shall perform the duties of watchmen, each of whom shall receive a salary of nine hundred dollars per annum.

8. The salary of the county clerk shall be four thousand dollars per annum; he may appoint deputies as follows: One chief deputy, whose salary shall be two thousand four hundred dollars per annum; twelve court-room clerks, twelve registry clerks, each of whom shall receive a salary of one thousand eight hundred dollars per annum; twelve assistant registry clerks, each of whom shall receive a salary of one thousand five hundred dollars per annum; and twelve copyists, each of whom shall receive a salary of one thousand six hundred dollars per annum; and such county clerk, when the exigencies of his office shall require, may, in his discretion, employ such additional copyists as shall be necessary, at a compensation not to exceed three dollars per day for the days of actual service; provided, said number shall not exceed at any one time three copyists for each judge of the superior court, to be paid from the treasury in the same manner as the salaries herein provided for are to be paid.

9. The salary of the district attorney shall be five thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this state, each of whom shall receive a salary of two thousand four hundred dollars per annum, and two clerks, who shall be attorneys of the supreme court of the state, each of whom shall receive a salary of one thousand five hundred dollars per annum.

10. The salary of the city, or city and county, attorney shall be four thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this state, each of whom shall receive a salary of two thousand four hundred dollars per annum; and one copyist, who shall receive a salary of nine hundred dollars per annum.

11. The salary of the coroner shall be three thousand dollars per annum; he may appoint two deputies, one to act as first deputy, whose salary shall be one thousand six hundred dollars per annum, the other to act as second deputy and

whose salary shall be one thousand five hundred dollars per annum; and one messenger, to take charge of the dead wagon, and perform such other duties as are required by the coroner or his deputies. The salary of the messenger shall be nine hundred dollars per annum.

12. The salary of superintendent of streets shall be four thousand dollars per annum; he may appoint twenty deputies; three of said deputies shall receive a salary of two hundred dollars per month each, and seven of said deputies shall receive a salary of one hundred and fifty dollars per month each, and ten of said deputies shall receive a salary of one hundred and twenty-five dollars per month each.

13. The salary of the city, or city and county, surveyor, shall be four thousand dollars per annum; he may appoint as many deputies, not to exceed four, as the municipal council shall from time to time determine are necessary, who shall receive such compensation as such municipal council shall provide, not to exceed the sum of five dollars per day when actually employed.

14. The salary of the superintendent of schools shall be three thousand dollars per annum.

15. The salary of each of the police judges shall be four thousand dollars per annum.

16. The salary of the prosecuting attorney of the police court shall be twenty-four hundred dollars per annum; and his two assistants shall each receive a salary of one thousand five hundred dollars per annum.

17. The salary of the presiding justice of the justices' court shall be three thousand dollars per annum; and each of the other justices of the peace shall receive a salary of two thousand four hundred dollars per annum.

18. The salary of the clerk of the justices' court shall be two thousand four hundred dollars per annum; his two deputies shall receive a salary of one thousand two hundred dollars per annum.

19. The salary of the collector of licenses shall be three thousand dollars per annum. He may appoint one chief deputy, who shall receive one thousand eight hundred dollars per annum, and twelve deputies, who shall receive a salary of one thousand five hundred dollars per annum each.

§ 27. Any officer or commissioner of such city, or city and county, or any officer or member of any house, board, or department of the government thereof, who shall be directly or indirectly interested in, or a beneficiary or participant of, the profits of any contract made with or for such city, or city and county, or any board or department thereof, or who shall participate in the profits made by any person or persons upon services, labor, purchases, sales, subsistence, supplies, materials, or any article or thing furnished to or done for such city, or city and county, or any institution, public work, or branch, or department of the government thereof, or sold by the same, which contract, profit, purchase, sale, or supply is made, or could have been made, influenced, or brought about, through or by means of the official action or conduct of such officer, commissioner, or member of such board, except the official salary or compensation of such officer, commissioner, or member of such board or department provided expressly by law, shall be deemed guilty of a felony, and, on conviction by any court of competent jurisdiction, punished accordingly. Any commissioner, officer, clerk, or other person having custody of or access to any bids or proposals, whether sealed or otherwise,

for supplying or furnishing any goods, provisions, subsistence, labor, material, printing, or other thing of any nature, or constructing, cleaning, repairing any work or thing, or doing or furnishing anything whatsoever to such city and county, or any department, board, commissioner, or officer thereof, who shall open or examine into any one or more of such bids, proposals, or change, interline, alter, or otherwise tamper with the same, or shall purposely find out the contents thereof, or who shall aid, abet, assist, or permit another so to do, before or in advance of the time prescribed by law for the opening thereof, or any lawful postponement of such time, shall be deemed guilty of a felony, and, on conviction by any court of competent jurisdiction, shall be punished accordingly.

§ 28. All questions of differences between the officers of such city, or city and county, as to their relative duties, may be referred by either of them to the city, or city and county, attorney, who shall examine and determine such questions, and his decision shall be final as between such officers.

§ 29. The following officers, and the heads of the following departments of such city, or city and county, shall report to the municipal council on or before the first day of August of each year the condition of their respective departments during the fiscal year ending June thirtieth previous thereto, embracing all their operations and expenditures: Auditor, assessor, tax collector, county clerk, superintendent of streets, fire department, hospital, almshouse, park commissioners, treasurer, sheriff, county recorder, city or city and county surveyor, license collector, public schools, fire-alarm and police telegraph, poundkeeper, board of health, city or city and county attorney, industrial school, police, coroner, health officer, justices' court, city-hall commissioners, home for the care of the inebriate, board of election directors, commissioner of elections, house of correction, city cemetery, free public library, and the building committee of the municipal council. Immediately after the first Monday in February, the mayor and municipal council shall make up and publish an extract from these several reports and other sources, of the operations, expenditures, and condition of all departments of government of such city, or city and county.

ARTICLE III.—LEGISLATIVE DEPARTMENT.

§ 40. The legislative power of such city, or city and county, shall be vested in a body to be styled the "Municipal Council," which shall be composed of two boards or houses of legislation, one to be called the "Board of Aldermen," and the other the "House of Assistant Aldermen."

§ 41. The board of aldermen shall consist of twelve persons, to be elected by general ticket, from the city, or city and county, at large, the members of which shall hold office for the term of four years, to commence on the first Monday after the first day of January next following their election, except that of the aldermen, who are elected at the first election under this chapter; the six receiving the smallest number of votes shall hold their office for two years only; so that thereafter only six shall be elected every two years. In case of a tie vote at such first election, the question of which aldermen shall hold the full and which the short term shall be determined between the candidates so tied by lot. The aldermen shall receive each a salary of one thousand two hundred dollars a year, payable in monthly instalments, out of the general fund.

§ 42. The board of aldermen shall appoint a secretary, with a salary not to

exceed two hundred dollars a month, who shall keep the records of said board. He shall hold office during the pleasure of the board. He shall have power to administer oaths and affirmations in all cases, and to certify and authenticate copies of all records, papers, and documents in his official custody, and shall perform any other services required by the board.

§ 43. The house of assistant aldermen shall consist of twelve persons, to be elected every two years, one each by the qualified electors of the respective wards, into twelve of which such city, or city and county, shall be divided for such purpose. The assistant aldermen shall hold office for the term of two years, to commence on the first Monday after the first day of January next following their election, and shall receive each a salary of one thousand two hundred dollars a year, payable monthly out of the general fund.

§ 44. The house of assistant aldermen may appoint a clerk, who shall keep their records, and hold office during their pleasure. He shall have a salary not to exceed two hundred dollars a month; shall have power to administer oaths and affirmations, and to certify and authenticate all records, documents, and papers in his official custody. He shall perform any other services required of him by the house.

§ 45. Any vacancy occurring in either board shall be filled by the mayor; and the person appointed to fill such vacancy shall hold office till the next election by the people, and until his successor is qualified.

§ 46. Every member of the board of aldermen shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, for three years next before his election or appointment.

§ 47. Every member of the house of assistant aldermen shall be a qualified voter, at least twenty-five years of age, shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, at least two years, and of the ward from which he is elected or appointed at least one year next before his election or appointment.

§ 48. Every member of either branch of the municipal council shall, at all times during his incumbency of said office, possess the following qualifications: He shall not be, directly or indirectly, interested in any contract with such city, or city and county, or any department or institution thereof. He shall not have been convicted of malfeasance in office, bribery, or other corrupt practices or crimes. Any member who fails to possess, or who shall at any time during his term of office cease to possess, any of the qualifications mentioned in this act as a qualification shall thereby forfeit his seat in the board or house to which he belongs, and the vacancy shall be filled as in other cases. If any member of either branch absent himself from the state, or neglect to attend the meeting of the board or house to which he belongs, for a period of thirty days, his office shall be declared vacant by said board, and a successor must be appointed, to hold till the next election by the people, as provided in other cases.

§ 49. Each board or house shall elect its own officers, except as to the presiding officer of the board of aldermen. The mayor shall preside at all the sessions of the board of aldermen, without the right to vote. In his absence, during any session, the board shall appoint one of its members as president pro tempore, who

shall, however, have the same right to vote as other members. Each house shall be the judge of the election returns and qualifications of its own members, and may determine the rules of its own proceedings, except as herein provided. Each house shall keep a record of its acts, and allow the same to be published, and the yeas and nays on any question shall, at the request of any member, be entered on the journal of the house; may arrest and punish by fine, not exceeding five hundred dollars, or imprisonment as provided by ordinance, not exceeding thirty days, or both, any person not a member who shall be guilty of disrespect to the board or house by disorderly or contemptuous behavior in its presence during its session; may punish its members for disorderly conduct, and, with the concurrence of two thirds of all the members elect, may expel a member.

§ 50. The house of assistant aldermen shall elect one of their own number presiding officer of said house, who shall be designated as the "chairman" thereof. A majority of the members of either house shall constitute a quorum to do business; and no regulation, resolution, ordinance, or order of either house can pass without the concurrence of a majority of all the members elected or appointed to such house; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as the house or board may provide.

§ 51. All sessions, acts, and resolutions of each house shall be public. Neither house shall, without the consent of the other, adjourn for more than seven days at any one time, nor to any other place than that in which the two houses may be sitting.

§ 52. No member of the municipal council shall, during the time for which he is elected, be eligible or appointed to any other office under the city, or city and county, except such offices as may be filled by election by the people, nor shall any member, while such, be an employee of such city, or city and county, or any board or department thereof, or of either branch of the municipal council, in any capacity whatever; and no compensation shall be audited or paid for services as such officer or employee; and no act, ordinance, or resolutions shall ever be passed whereby any member of either house shall become the disbursing officer of such city, or city and county, or any board or department thereof, or pay out any of its money upon any pretense whatever.

§ 53. No member of the municipal council, or of the board of education, or any officer of such city, or city and county, or of any ward thereof, shall have any power to contract any debt or liability whatsoever against such city, or city and county, nor shall the people, or taxpayers, or any property therein, ever be liable to be assessed for or on account of any debt or liability hereafter contracted, or attempted to be contracted, in contravention of this chapter.

§ 54. The municipal council shall appoint a joint committee of five, three from the board of aldermen, and two from the house of assistant aldermen, to be denominated the "Finance Committee," which committee may at any time, and shall whenever required by the municipal council, or either branch thereof, investigate the transactions and accounts of any and all officers appertaining to the government of such city, or city and county, having the collection, custody, or disbursement of public money, or having the power to approve, allow, or audit demands on the treasurer, and report thereon to the municipal council.

Said committee shall have full power to send for all persons and papers, and enter into, examine, inquire, and investigate all offices and places, to administer oaths and affirmations, to examine witnesses, and compel their attendance by subpoena and attachment for contempt, and the production of records, books, and papers, and may imprison in the city or county jail any person refusing to appear or testify, as well as any officer or person failing or refusing obedience to the orders to show records, papers, or books, or to testify when required so to do. The sheriff or any policeman of such city, or city and county, shall enforce all orders of said committee, and attend upon it in like manner as upon courts of record. The mayor may be present and participate in such investigations.

§ 55. The municipal council shall meet on the first Monday after the first day of January, and on the first Mondays of April, July, and October of each year, and at such other times as required by law, and may be specially convoked by the mayor as herein provided.

§ 56. No ordinance shall be passed except by bill, and no bill shall be so amended in its passage as to change its original object. No bill shall contain more than one subject, which shall be expressed by its title. On the final passage of all bills the vote shall be by "yeas" and "nays" upon each bill, separately, and the names of the members voting for and against the same shall be entered on the journal. Bills may originate in either house, and no bill shall be passed by either house except by a majority vote of all the members elected or appointed to either house.

§ 57. No amendments to bills by either house shall be concurred in by the other except by a vote of a majority of all the members elected or appointed thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted by either house only by the vote of a majority of all the members elected thereto, taken by "yeas" and "nays," and the names of those voting recorded upon the journals.

§ 58. No ordinance shall be revived, re-enacted, or amended, by mere reference to its title, but such ordinance or section shall [be] set forth at length, as if it revived, re-enacted, or amended.

§ 59. When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be taken up, and the subject finally disposed of at the next meeting of the council, unless such house, by a two-thirds vote, decides to act upon such reconsideration at the same meeting.

§ 60. No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the two houses in open session, in authentication of its adoption by such house. In signing such bill for authentication, the presiding officer shall call the attention of the house to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as enrolled. If any member object that the bill is not the same in substance and form as when considered and passed by the house, such objection shall be passed upon, and if sustained, the presiding officer shall withhold his signature, and the bill shall then be corrected, and finally disposed of, and signed, before the house proceeds to any other business.

§ 61. No general appropriation act or authorization shall ever be passed, but

all appropriations shall be for the specific amount of the claim to be paid, and no more; and each ordinance or resolution authorizing the payment of money shall contain one claim only, which shall be expressed in the title. Every ordinance or resolution of the municipal council providing for any specific improvement, the granting of any privilege, or involving the lease or appropriation of public property, or the expenditures of public moneys, except for sums less than five hundred dollars, or levying tax or assessment, and every ordinance or resolution imposing a new duty or penalty, shall, after its introduction in either house, be published, with the "yeas" and nays," in a newspaper doing the city and county printing, at least five successive days before final action upon the same by the house in which it was introduced; and in case such ordinance or resolution shall be amended before final passage in said house, then the bill as amended, shall be so published, in the same manner, before final action by such house thereon; and every such ordinance, after the same shall have passed both houses, shall, before it takes effect, be presented to the mayor for his approval. If he approves, he shall sign it; if not, he shall return it within ten days to the house in which the same originated, with his objections in writing. Said house shall then enter the objections on the journal, and publish them in the newspaper doing the city printing. At the next stated meeting thereafter, said house shall proceed to reconsider such bill. If, after such reconsideration, it again passes both houses by the votes of nine of the members elected or appointed to each house voting therefor, it shall become a law, notwithstanding the mayor's objections. Should any such ordinance or resolution not be returned by the mayor within ten days after he receives it, it shall become valid, the same as if it had received his signature. Where a claim against the treasury amounts to more than five hundred dollars, it shall not be lawful to divide or break up the same into several sums of less than that amount so as to evade the provisions of this section concerning claims; and any effort or attempt to accomplish such unlawful division, or breaking up a claim, shall be deemed, as to every member of the municipal council or other officer consenting thereto, or aiding the same, a misdemeanor in office, and be cause for his removal. All ordinances authorizing the payment of any money out of the treasury, or any claim thereon, shall be referred to the appropriate standing committee of the house where the bill is introduced, who shall present the same to the auditor, in order that he may certify that there is sufficient money in the proper fund out of which such claim can lawfully be paid, and that such appropriation can be made without violating the provisions of this chapter; and until the auditor certifies in writing, signed by his name, that there is sufficient money in the proper fund, and that the authorization can be made without violating the provisions of this chapter, no further proceedings shall be had with such bill. It shall be the duty of the auditor with reasonable promptness to ascertain the facts, and to give the certificate when the facts warrant him in doing so, and not otherwise.

§ 62. The powers of the municipal council, and all other boards, commissioners, and officers, are those specially named in this chapter, and they are prohibited from exercising any other.

§ 63. The enacting clause of ordinances shall be in the following terms: "The municipal council of the city and county of — (or city of —, as the case may be), hereby ordains as follows."

§ 64. The municipal council shall further have power by regulation or ordinance :

1. To provide for the security, custody, and administration of all property of such city, or city and county, and to purchase land required for municipal purposes without any power to sell or encumber the same, or lease any part thereof for more than three years ; except, however, that such personal property belonging to the fire, street, or other departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

2. To provide for cases omitted in this chapter, and in conformity with the principles adopted in it, for opening, altering, extending, constructing, repairing, or otherwise improving public streets and highways at the expense of the property benefited thereby, without any recourse in any event upon such city, or city and county, or the public treasury, for any portion of the expense of such work, or any delinquency of the property holders or owners.

3. To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in duration ; nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

4. To provide water for all municipal purposes, and to pay for the same where lawful and necessary. In case water is supplied to such city, or city and county, for municipal purposes, any person, corporation, or association holding a valid franchise under the laws of this state to collect water rates for the use of water, then such city, or city and county, when it is lawful and necessary, shall pay the lawful rates, and no more, as established each year for water supplied for other than municipal purposes ; and it shall not be lawful to make any special contract with such person, corporation, or association for water so as to vary from the rates fixed by law.

5. To regulate market-houses and market-places.

6. To provide for inclosing, improving, and regulating all public grounds of such city, or city and county.

7. To prohibit the erection of wooden buildings or structures within any fixed limits where the streets have been established and graded, or ordered to be graded, or to restrict and limit the height of such buildings or structures ; to regulate the sale, storage, and use of gunpowder, and to restrict the limits within which may be manufactured or kept giant powder, dynamite, nitroglycerin, or other explosive or combustible materials and substances, and the maintenance of acid works ; and make all useful regulations in relation to the manufacture, storage, and transportation of all such substances, and the maintenance of acid works, slaughter-houses, brick burning, tanneries, and all other manufactures and works of every description that may jeopardize the public safety, and to exclude them from the city, or city and county, when necessary, or to restrict them, or any of them, to a district. To make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

8. To permit the laying down of railroad tracks and the running of cars thereon along any street, or portion of street, for the sole purpose of excavating

and filling in a street, or a portion of a street, or adjoining lots, and for such limited time as may be necessary for the purpose aforesaid, and no longer.

9. To determine the fines, forfeitures, and penalties that shall be incurred for the breach of regulations established by the said municipal council, and also for a violation of the provisions of this chapter, where no penalty is affixed thereto or provided by law; but no penalty to be imposed shall exceed the amount of one thousand dollars, or six months' imprisonment, or both. And every violation of any lawful order or regulation, or ordinances of the municipal council, is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the people of the state of California.

10. To regulate and provide for the employment of prisoners sentenced to labor on the public works of such city, or city and county, and to maintain and regulate city, or city and county, jails and prisons, with manufacturing or other laboring establishments, or appliances connected therewith.

11. To provide a suitable office and jury room, and dead-house or morgue, with the furniture necessary to enable the coroner to efficiently discharge the duties of his office, and to make the necessary appropriation therefor; and to audit and pay for the necessary expenses of maintaining the morgue and offices attached, such sum as may be necessary, not to exceed seventy-five dollars per month, out of the general fund.

12. To maintain and regulate a home of [for] the inebriate, in its discretion.

13. To provide and maintain a city prison.

14. To maintain and improve the city cemeteries, and to pay out of the general fund a keeper thereof, to be appointed by the board of health, at a salary not to exceed one hundred dollars a month.

15. To license and regulate hackney carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, baggage, goods, merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to license and regulate persons and parties employed in conveying baggage, property, and merchandise, or either, to or from any of the wharves, slips, bulkheads, or railroad stations within the limits of such city, or city and county; to fix and establish the amount of every license paid into the city, or city and county, treasury for city, or city and county, purposes; to provide for the summary removal and disposition of any or all vehicles found in the streets, highways, and public squares during certain hours of the day or night, to be designated by the council; and, in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles; to protect the public from injury by runaways, by punishing persons who negligently leave horses or carriages in the street; to prescribe the width of the tires of all drays, trucks, and carts, in accordance with the weight to be carried thereby, for the preservation of the streets and highways.

16. To regulate, license, and control the business of keeping intelligence offices, prescribe the method of conducting said business, and to enforce, by fines and penalties, the payment of the license, and any violation of the regulation touching said business. To license and regulate pawnbrokers, and to enact regulations to protect the public in dealing with them.

17. To fix the fees and charges to be collected by the surveyor of such city, or

city and county, for certificates of surveys for buildings or other purposes, and to provide for a sufficient corps of deputy surveyors to perform such work, to be paid from such fees only; also, to regulate the fees to be charged by the superintendent of streets, the county recorder, and any and all other municipal officers where their fees are not otherwise fixed by law, and compel the payment of all such fees and charges into the city and county treasury into the proper fund, in accordance with the provisions of this act.

18. To license and regulate, for the purposes of city, or city and county, revenue, all such callings, trades, and employments as the public good may require to be licensed and regulated, and as are not prohibited by law; to provide for and enforce, with penalties or otherwise, the collection and due payment into the city, or city and county, treasury of all moneys so due or raised, and to make all needful rules and regulations to govern the official conduct and duties of the collector of licenses.

19. To provide and pay for the construction and repair of hydrants, fire plugs, cisterns, and pumps in the streets.

20. To allow and order paid out of the general fund a sum not to exceed three thousand dollars in any year, for the celebration in such city, or city and county, of the anniversary of our national independence.

21. To allow and order paid out of the general fund for the election expenses of such city, or city and county, not to exceed forty dollars for each election precinct for each election in said city, or city and county.

22. To provide ways and means for the prosecution of the claims of such city, or city and county, to any land or other property or right claimed by such municipality.

23. To provide for the appointment by the mayor of a weigher of coal, without salary, and to regulate and define his duties, and establish rates of charges to be collected from persons requiring his services, and for his compensation from such rates and charges alone, and with no claim upon such city, or city and county.

24. To authorize and direct the summary abatement of nuisances; to make all regulations which may be necessary or expedient for the preservation of the public health and the prevention of contagious diseases; to provide fines and penalties against individuals who may be guilty of maintaining any nuisances, and enforcing the same until such nuisance be removed or abated; to provide by regulation for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways, and public grounds of such city, or city and county, and to prevent or regulate the running at large of dogs, and to authorize the destruction of the same when at large contrary to ordinance.

25. To prohibit, suppress, regulate, or exclude from certain limits all houses of ill-fame, prostitution, and gaming; to prohibit, suppress, regulate, or exclude from certain limits all occupations, houses, places, pastimes, amusements, exhibitions, and practices which are against good morals, contrary to public order and decency, or dangerous to the public safety.

26. To require, by ordinance, all contractors for street work, or other persons lawfully undertaking to improve, grade, or alter streets or public highways, to erect fences or barriers, to keep lights at night, and to take other necessary pre-

cautions to protect the public from damage, loss, or accident by reason of such grading, alteration, or improvement, and to fix and prescribe penalties for the violation of the provisions of such ordinance.

27. To provide for the safe-keeping and disposition of lost, stolen, or unclaimed property of every kind, which may at any time be in the possession or under the control of the police of such city, or city and county.

28. To regulate, and when necessary to suppress, all public demonstrations and processions which interfere with public traffic.

29. To appoint a fire marshal. Such appointment shall be made on the nomination of the board of fire underwriters of such city, or city and county, if such board shall exist therein. If more than one such board shall exist therein, then upon the nomination of the board which shall have been longest organized. His salary shall be fixed and paid by such board of fire underwriters. Such fire marshal shall, before entering upon the office, take and subscribe the oath of office, and execute a bond to the state of California in the sum of five thousand dollars, with two or more sureties, to be approved by a judge of the superior court, for the faithful discharge of his duties. Any person aggrieved by any misconduct of such marshal, or his deputy, may bring an action in his own name upon such official bond, which bond shall be filed in the office of the county clerk. It shall be the duty of such fire marshal to attend all fires which may occur in such city, or city and county, with a badge of office conspicuously displayed. He shall take charge of and protect all property which may be imperiled at any such fire, and safely keep the same under his possession and control until satisfactory proof of ownership be made thereto; and shall, as far as practicable, prevent such property from being injured at such fire, and direct, when in his opinion it shall be necessary, the removal of goods, merchandise, and other property to a place of safety. He shall be authorized and empowered to exercise the functions of a peace-officer of such city, or city and county. Any person who shall wilfully hinder or obstruct said officer in the lawful discharge of his duties shall be deemed guilty of a misdemeanor; provided, however, that nothing herein contained shall be so construed as to authorize such fire marshal to interfere in any manner with the proper discharge of the lawful duties and authority of any chief engineer of any fire department of such city and county. It shall be the duty of such fire marshal to institute investigations into the cause of such fires as occur in such city, or city and county; and for this purpose he shall have power to issue subpoenas and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be directed to and served by any police officer, or by any peace-officer of such city, or city and county. And witness who refuses to attend or testify in obedience to such subpoena shall be deemed guilty of contempt, and be punishable by him as in cases of contempt in justices' courts in civil cases. He shall make a written report of the testimony to the district attorney, and institute criminal prosecutions in all cases in which there appears to him to be a reasonable and probable cause for believing that a fire has been caused by design. It shall be the duty of such fire marshal to aid in the enforcement of the fire ordinances of such city, or city and county, and for this purpose he is duly authorized to visit and examine all buildings in process

of erection or undergoing repairs, and to institute prosecutions for all violations of the ordinances of such city, or city and county, which relate to the erection, alteration, or repairs of buildings, and for the prevention of fires. He shall exercise such additional powers as may be conferred upon him by the ordinances of such city, or city and county, to enable him fully to carry out the object and purpose of his appointment, and for the prevention of fires. He shall have power to appoint a deputy, who may exercise all the powers and perform all the duties of such marshal. The salary of such deputy shall be paid in the same manner as the fire marshal. Any person who saves from fire, or from a building endangered by fire, any property, and who wilfully neglects for two days to give notice to such fire marshal, or to the owner of such property, of his possession thereof, shall be deemed guilty of grand or petit larceny, as the case may be, according to the value of said property; and any person who shall be guilty of false swearing in any investigation under this subdivision shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished therefor as in other cases of perjury. Such fire marshal may be removed at any time by the same power or powers that appointed him. And in case of the removal, resignation, or death of such fire marshal, his successor shall be appointed in the same manner as hereinbefore provided. Such fire marshal is hereby authorized and empowered to appoint one or more persons, during the time of fire, for the purpose of saving and protecting property at such fire, and until it shall be delivered to the owner or claimant thereof, and such person or persons so appointed shall have, during such period, the authority and power of a policeman of such city, or city and county, and shall be known as the fire marshal's police; and each of such persons shall wear, while in the discharge of his duty, conspicuously displayed on his person, such badge or device as such fire marshal shall designate. No person shall be entitled to any property in the hands of such fire marshal, saved from fire, until satisfactory proof of ownership be made, and until the actual expenses incurred by such officer for the preservation and keeping of the same shall be paid to him by the owner or claimant of said property; and in case of dispute as to the amount of such expenses, said dispute to be determined by the justices' court of such city, or city and county. Such fire marshal is hereby duly authorized and empowered to hold and sell, or cause to be sold, at public auction, all property in his possession, saved from a fire or fires, for which no owner can be found, after advertising the same in two daily newspapers published in such city, or city and county, for the period of thirty days; provided, however, that if, upon application of such fire marshal to the police judge, it shall appear that such property is perishable, such judge may order such fire marshal to make sale thereof upon such notice as in the opinion of such judge may be reasonable. The proceeds of all such sales, together with an account thereof, after deducting all expenses, shall be by him deposited with the treasurer of such city, or city and county, to be held by such treasurer, subject to the claim of the owner of such property. Such fire marshal shall, from time to time, file with the clerk of such city, or city and county, under oath, a statement and description of all property in his possession, or under his control and sold by him, together with the amount of money by him deposited with the treasurer of such city, or city and county.

30. To maintain a fire-alarm and police telegraph in such city, or city and county.

31. To require the owners of lots to prevent sand from drifting, being blown, or otherwise moved therefrom, into or deposited upon any paved, planked, or macadamized street, alley, place, park, thoroughfare, or other public property, and to enforce all such regulations by sufficient fines and penalties.

32. To maintain, regulate, govern, manage, and carry on a house of correction, and to utilize therein and thereby the labor of all prisoners committed to the jail or house of correction of such city, or city and county, by the police courts and the superior courts; to prescribe rules of commitment and detention of prisoners, hours of labor, and all necessary rules, regulations, and restrictions for the proper operation of said institution. All prisoners sentenced to a term in the county jail, or house of correction, shall be deemed to have been sentenced to labor during such term. The judges of police courts and of the superior courts, in such city, or city and county, may sentence criminals to the house of correction when, in the judgment of such judge, the criminal is too young to be sentenced to the state prison, or when it is deemed better for the well-being of the prisoner. No person shall be sentenced to imprisonment in the house of correction for a shorter or longer term than that for which he might be sentenced in the jail of such city, or city and county, or in the state prison; and in no case whatever for a shorter term than three months nor for a longer term than three years. No person who might be sentenced to imprisonment in the state prison shall be sentenced to imprisonment in the house of correction if he is more than twenty-five years of age, if he has been once before convicted of a felony, or twice before convicted of petit larceny, nor unless, in the opinion of the court, imprisonment in the house of correction will be more for his interest than imprisonment in the state prison, and equally for the interest of the public. The fact of a previous conviction may be found by the court upon evidence introduced at the time of sentence. The board of aldermen of the city, or city and county, shall appoint a competent superintendent of the house of correction of such city and county, who shall also be treasurer of said house of correction, and who shall give good and sufficient bonds, in a sum, and with sureties, to be approved by said board of aldermen, for the faithful discharge of his duties, and to whom shall be paid a salary, to be fixed by them, not to exceed two hundred and fifty dollars per month, payable monthly. Said superintendent shall only be removed, for just and sufficient legal cause, after a fair and impartial investigation of his case by said board of aldermen. He shall, immediately after his appointment, and when authorized by said board of aldermen, appoint, subject to the approval thereof, such subordinates as may be deemed necessary by the board of aldermen; and the pay of such subordinates shall be fixed by said board of aldermen, not exceeding one hundred dollars per month to each party so appointed. The superintendent shall manage the general interests of the institution; see that its affairs are conducted in accordance with the requirements of this chapter and of such by-laws as the board of aldermen may from time to time adopt for the orderly and economical management of its concerns; to see that strict discipline is maintained therein; to provide employment for the inmates; adjust and certify all claims against the institution. And all by-laws made by said board of aldermen for the management of said institution, and not contrary to the laws of this state, shall

be binding, in all respects, upon said superintendent, officers, and inmates; and said superintendent shall each year prepare and submit, under oath, to the board of aldermen a report of the concerns of said institution. The superintendent shall reside at the house of correction, have charge of its inmates and property, and be its treasurer; keep accounts of all his receipts and expenditures, and of all such property and account in such manner as the said municipal council may require, and hold all books and papers open to their inspection.

33. To maintain and regulate an industrial school for the detention, management, reformation, education, and maintenance of such children, under the age of eighteen years, as shall be committed or surrendered thereto by the courts of such city, or city and county, as vagrants, living an idle or dissolute life, or who shall be convicted by the police or superior court of any crime or misdemeanor, or who, being tried for any crime or misdemeanor in such court, shall be found to be under fourteen years of age, and to have done an act which, if done by a person of full age, would be a crime or misdemeanor; and said council is empowered to regulate the commitment, detention, and discharge of such children, and to designate and prescribe the causes, terms, and conditions thereof; and the said police court and superior court shall have power to adjudge that such persons so convicted shall be so imprisoned; and persons so convicted shall remain at said industrial school until he or she shall attain majority, unless a shorter time shall be fixed by said court in the commitment. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The municipal council may provide for binding out such children as apprentices during their minority, to learn proper trades and employments. There shall be a superintendent of said industrial school, to be appointed by the board of aldermen. He shall be deemed a public officer, whose salary shall not exceed two hundred and fifty dollars per month, and such other employees as may be necessary, with salary not to exceed one hundred dollars per month each. Such police and superior court, or either of them, upon the application of the board of aldermen, and upon its certificate that it is expedient to do so, shall have power to discharge any child committed to said industrial school, and who is not bound out as an apprentice, or adopted, and may in like manner discharge such child upon the application, in writing, of the parents or guardian of such child, who shall not have been bound out or adopted, and after ten days' notice, in writing, to the board of aldermen, if, upon the hearing of the application, such police court or superior court shall consider that such discharge is expedient.

34. To establish and maintain an almshouse, a city and county hospital, a smallpox hospital, and such other institutions of the same character as are or may be necessary, and to perpetuate such institutions as may have been heretofore established in such cities, or cities and counties, heretofore incorporated.

35. To order paid out of the general fund any final judgment against such city, or city and county.

36. To maintain, regulate, and govern a public pound, fix the limits within which animals shall not run at large, and appoint pound-keepers, who shall be paid for out of the fines imposed and collected of the owners of impounded animals, and from no other source.

37. To allow and order paid out of the street department fund such sums as

may be deemed necessary for improvement of streets bordering on the water front, and improvement of sewers and streets in front of public property.

38. To allow and order paid out of the general fund such sums as may be necessary for burying the indigent dead.

39. To allow and order paid out of the general fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

40. To enact such general and special police regulations for such city, or city and county, as shall secure the health, comfort, and security of the inhabitants, the safety and security of property and life, and to enforce the same therein.

41. To make needful rules and regulations for the administration, care, and maintenance and conduct of all departments and offices of such city, or city and county, when not otherwise in this chapter provided for, so as to secure more perfect safety of the public funds, and greater efficiency in all departments of the service, and to enforce the observation of such rules and regulations, and to authorize the appointment of such additional clerks, assistant deputies, and employees as in their judgment may be necessary for the proper discharge of the duties of such offices and departments.

42. To appropriate the moneys derived from the revenue of such city, or city and county, to a general fund, and such funds as have been heretofore or shall be hereafter established by law, or the said council, and as shall be necessary for the proper and economical administration of such city, or city and county.

43. To establish, maintain, and regulate free public libraries and reading-rooms, and to perpetuate such free libraries and reading-rooms as may have been heretofore established in such cities, or cities and counties, heretofore incorporated.

44. To provide, fit up, and furnish, and provide with fuel, lights, stationery, and all necessary attendance, conveniences, and care, rooms convenient and accessible to the courts, sufficient for the use and accommodation of a law library and those who have occasion to use it, and approved by the officers having the government of said library, and to perpetuate and in the same manner provide for any law library now existing in such city, or city and county, the use of which has been secured by law to the courts, the bar, and the city, or city and county, government. The municipal council shall have power, and it shall be their duty, to appropriate, allow, and order paid out of the proper fund such sums as may be necessary therefor.

45. To establish and maintain a free medical dispensary, and to perpetuate any such heretofore existing in such city, or city and county.

46. To appoint a committee of five, three from the board of aldermen and two from the house of assistant aldermen, to be denominated the "building committee," to superintend the construction of buildings hereafter to be constructed for such city, or city and county, or now in progress of construction therefor, and to appoint a secretary for such committee, and to fix his compensation, and, if necessary, also to appoint a superintendent and architect therefor, fix their respective compensation, and require of such superintendent and architect to execute bonds, with two sureties, conditioned for the faithful performance of their duty [duties], in such sums as may be deemed necessary.

47. To divide the city, or city and county, by ordinance, into twelve wards, to

fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general election, nor within twenty months after the same shall have been established or altered.

48. To provide for the levy, collection, and appropriation of revenue heretofore by law provided to be collected for the erection and completion of any public building in and for such city, or city and county, in the manner as heretofore provided by any law of this state for the levy, collection, and appropriation of the same.

§ 65. The municipal council shall constitute a board of equalization for such city, or city and county, and as such shall have the powers conferred by the general laws regulating the assessment and collection of taxes, when not inconsistent with the provisions of this chapter.

§ 66. All the streets, lanes, alleys, places, or courts, as laid down on the official map of such city, or city and county, and all other streets, lanes, alleys, places, or courts now dedicated or open to public use, are hereby declared to be open public streets, lanes, alleys, places, or courts for the purpose of this chapter; and the municipal council is invested with jurisdiction to order any of the work mentioned in section sixty-seven of this act to be done on any of said streets, lanes, alleys, places, or courts, when the grade and width of said streets, lanes, alleys, places, or courts have been officially established; and for the purposes of this chapter the grade of all intermediate or intersecting streets, lanes, alleys, places, or courts in any one block shall conform to the grades as established of the crossings of the main streets.

§ 67. The municipal council is hereby authorized and empowered to order the whole or any portion of the said streets, lanes, alleys, places, or courts graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, piled or repiled, capped or recapped, and to order sidewalks, sewers, cesspools, manholes, culverts, curbing, and crosswalks to be constructed, and to order any streets and sewers cleaned, and to order any other work to be done which shall be necessary to make and complete the whole or any portion of said streets, lanes, alleys, places, or courts, and they may order any of the said work to be improved; and when any street, or portion of a street has been or shall hereafter be constructed to the satisfaction of the municipal council and the superintendent of streets, and shall have a brick sewer, or cement or ironstone pipe constructed therein, under such regulations as said municipal council shall adopt, the same shall be accepted by it, and thereafter shall be kept open and improved by such city, or city and county, the expense thereof, together with all work done in front of city, or city and county, property, to be paid out of the street department fund, or other proper fund; provided, that the municipal council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing and one block in length, or one entire crossing); and provided further, that it may, partially or conditionally, accept any street, or portion of a street, without a sewer or pipe therein as above stated, if a sewer or pipe therein shall be deemed by them unnecessary; but the lots of land previously assessable for the cost of construction of a sewer or pipe shall still remain and be assessable for such cost, and for the cost of repair and restoration of the street damaged in the said construction,

when thereafter a sewer or pipe shall be deemed necessary, the same as if no partial or conditional acceptance had ever been had. The said superintendent of streets shall keep in his office a register of all accepted streets, the same to be indexed so that reference may be easily had thereto.

§ 68. The municipal council may order work authorized by this chapter, the cost and expense of which is made chargeable, or may be assessed upon private property by special assessment, to be done, after notice of its intention so to do in the form of a resolution describing the work, and signed by the clerks of both branches of the municipal council, has been published for the period of five days in the paper doing the printing for such city, or city and county, and also in two daily newspapers, one of which newspapers shall be published as a morning edition and one as an evening edition, printed and published in such city, or city and county, for five days, Sundays and non-judicial days excepted; provided, that no such notice shall be given or order made for the grading of any street, unless the majority of the frontage of the lots and land fronting on the work proposed to be done, and described in said resolution, or which is to be made liable for such grading, except public property, shall have been represented by the owners thereof, or by their agents, in a petition to the said municipal council, stating that they are the owners and in possession or agents of the lots named in the petition, and also requesting that such improvements or street work shall be done. All owners of lands, or lots, or portions of lots, who may feel aggrieved, or have objection to the ordering of the work described in said notice, or who may have objection to any of the subsequent proceedings of the municipal council in relation to the work mentioned in such notices of intention, or may have any objections to any of the acts of the superintendent of streets, and the city, or city and county, surveyor of such city, or city and county, in the discharge of any of the obligations or duties imposed upon him or them by virtue of their offices, shall file with the clerk of either branch of the municipal council a petition or remonstrance, wherein they shall set forth in what respect they feel aggrieved, or the acts or proceedings to which they object, which petition or remonstrance shall be passed upon by the municipal council, and its decisions thereon shall be final and conclusive; but the municipal council shall not order the work described in said notices to be done unless all objections and protests that may have been presented and filed as aforesaid shall have been by them disposed of. Should the owners or agents of more than one half in frontage of the lots and lands fronting on the work proposed to be done, and designated in said notice or resolution, or liable to be assessed for work, file with the clerk of either branch of the municipal council written objections against any grading described in said notice, at any time before the expiration of the publication of said notice of intention, and the publication thereof, as hereinbefore provided, then and thereupon the municipal council shall be barred from proceeding further for the period of six months, and shall not renew the notice of intention for doing any street work so protested against within six months, unless the owners or agents of a majority of the frontage of the lots and land fronting on said street work, or liable to be assessed therefor as aforesaid, shall petition anew for the work to be done. At the expiration of any notice of intention, the municipal council shall be deemed to have acquired jurisdiction to order any work to be done which is authorized by this chapter; and it is further provided, that

where any public street shall have been graded, or graded and macadamized, or graded and paved, for the distance of one or two blocks upon each side thereof of any one or two blocks or crossing of a street which is not improved, it shall be the duty of the municipal council, upon the recommendation of the superintendent of streets, to order the notice provided in this section to be given without the petition provided first aforesaid; and if the owners of three fourths of the frontage of the land and lots fronting on such portions of said streets to be graded or improved shall, within the time prescribed in said notice, file written objections to the improvement of the said street, such objection shall be a bar for six months for the doing of said work or making said improvement, except when the work or improvement proposed to be done is the construction of sewers, manholes, culverts, crosswalks, and sidewalks, the municipal council shall duly consider said objections before ordering said work; and if it shall decide and declare by an entry in the minutes of both branches thereof that the objections so made are not good, thereupon it shall be deemed to have acquired jurisdiction to order any such street work to be done that is described in said notice; provided further, that when one half or more of the grading, planking, macadamizing, paving, sidewalking, or sewerage of any one street, lying between two main street crossings, has been already performed, the municipal council may order the remainder of such grading, planking, macadamizing, paving, sidewalking, or sewerage to be done, notwithstanding the objections of any or all of the property owners.

§ 69. The owners of more than one half in frontage of lots and lands fronting on any street, lane, alley, place, or court, mentioned in section sixty-six of this act, or their duly authorized agents, may petition the said municipal council to order any of the work mentioned in section sixty-seven of this act to be done; and the said board may order the work mentioned in said petition to be done, after notice of their intention so to do has been published as provided in section sixty-eight of this act. No order or permission shall be given to grade, or pile and cap, any street, lane, alley, place, or court, in the first instance, or any portion thereof, without extending or completing the same throughout the whole width of said street, lane, alley, place, or court. When any such work has heretofore been done, or when any such work shall hereafter be done, in violation of this section, neither the lots or portions of lots in front of which such work has been or may be done hereafter, nor the owners thereof, shall be exempt from assessments made for the payment of the work afterwards done to complete said street, lane, alley, place or court to its full width, as provided in this chapter.

§ 70. At the expiration of publication of such notice, the clerk of either branch of the municipal council shall cause to be transmitted to the city, or city and county, surveyor, and to the superintendent of streets of such city, or city and county, a copy of the resolution, order, or ordinance authorizing the said street work. The said surveyor shall thereupon, within fifteen days from the completion of the publication mentioned in the last section, transmit to said municipal council a map of the district to be benefited by said street improvement; which map shall show the relative location of each lot to the work proposed to be done, and be signed by said surveyor. The superintendent of streets shall also thereupon, within fifteen days from the completion of said publication, transmit to the municipal council an estimate of the cost and expense of said

improvement, which said estimate shall contain the items composing the gross sum estimated, and shall be signed by said superintendent.

§ 71. The municipal council shall, at the first meeting after the receipt of such map and estimate, or as soon as may be practicable, either adopt, modify, or reject the same, and after its final action upon said map and estimate, the same shall be transmitted to said superintendent of streets, who shall record the same in a book to be kept by him for such purpose; and the said superintendent shall forthwith prepare plans and specifications for such street work, and the clerk of either branch of the municipal council shall cause to be conspicuously posted in the office of said superintendent, and also published for five days (non-judicial days excepted) in the newspapers hereinbefore mentioned, a notice inviting sealed proposals to contract for the work contemplated to be performed; such work not to be performed, nor any contract for the same made or entered into, until after the moneys sufficient for the payment of the costs and expenses thereof shall have been levied, collected, and paid into the treasury of such city, or city and county, as hereinafter provided; which notice shall substantially contain the plans and specifications above mentioned; and all notices, resolutions, and orders required to be posted or published under the provisions of this chapter shall be posted or published, or both posted and published, as the law may require, by said clerk, as a matter of course, and without any special direction or authority from said municipal council. The said superintendent shall furnish specifications for the performance of any and all street work ordered by the municipal council and authorized by this chapter, and the time within which said work must be completed after entering into the contract for doing the same. All proposals shall be delivered to the clerk of either branch of the municipal council, and the house of which he is the clerk shall, in open session, open, examine, and publicly declare the same; and all proposals shall be for a price payable in gold coin of the United States; provided, said municipal council may reject any and all proposals should they deem it for the public good, and also may reject the proposals of any party who may be proved delinquent or unfaithful with any former contract with such city, or city and county; and if all proposals shall be rejected, the municipal council shall direct the clerk of either house thereof to again post said notice, and publish the same as in the first instance. All proposals shall be accompanied with a bond to such city, or city and county, to be approved by the clerk of either house of said municipal council, in the sum of one thousand dollars, and in such additional amount as may be fixed by said superintendent of streets, with two good and sufficient sureties, who must be freeholders of such city, or city and county, said sureties to justify in double the amount, conditioned that the party making such proposal shall, or will, within ten days after notice from said superintendent that the moneys for the cost and expenses for such work have been paid into the treasury, enter into a contract with such city, or city and county, in pursuance of such proposal, and to commence such work within five days after the execution of such contract, and complete the same within the time mentioned in the said plans and specifications, or either of them, or within any extended time; it is further provided, that all persons proposing, owners included, who shall fail to enter into any contract as herein provided, or to complete the contracts entered into, are hereby prohibited from proposing a second time for the same work; and in case of owners, they

are hereby prohibited from electing to take the same work a second time, and from entering into any contract concerning the same. At any time within five days after such money has been paid into the treasury, the owners of a majority of the frontage of lots and lands liable to be assessed for said work, or their agents, and who shall make oath that they are such owners, or the agents of such owners, may elect to do the said work, and to enter into a written contract to do the whole work at the price for which the same is awarded, upon giving the bond as hereinafter provided; and they shall commence said work within five days after the execution of such contract, and shall prosecute it diligently and continuously, and complete it within the time limited in the contract, or within any extended time; but should the said contractor, or the property owners, fail to prosecute the same diligently or continuously, in the judgment of said superintendent, or complete it within the time prescribed in the contract, or within the extended time, then it shall be the duty of said superintendent to report the same to the municipal council, who shall immediately order the clerk of either branch of the municipal council to advertise for proposals as in the first instance, and relet the contract in the manner hereinbefore provided; and it is further provided, that all contractors for street work shall, at the time of entering into said contract, execute a bond payable to such city, [or] city or [and] county, with two or more sureties, in the sum of not less than one thousand dollars, and in such additional amount as may be fixed by said superintendent, conditioned for the faithful performance of said contract; and said sureties shall justify in double the amount of the penalty fixed in said bond; such sureties to justify before said superintendent or his deputy, and the qualifications and responsibility of such sureties shall be the same as prescribed for sureties on the official bonds of the officers of such city, or city and county; and it is further provided, that in case of the non-fulfilment by the obligor in either of the bonds mentioned in this section, of the conditions thereof, it shall be the duty of the city, or city and county, attorney to sue for and collect the sum in said bond mentioned, in any court of competent jurisdiction, and pay the same into the city and county treasury, to the credit of the proper fund.

§ 72. After the proposal shall have been received and considered by the municipal council, the superintendent of streets shall make an assessment in proportion to the benefit upon all the land in the district shown upon said map. Said assessment shall show the work proposed to be done, the estimated cost thereof, the rate per front foot assessed against each lot within the assessment district, the amount of each assessment, the name of the owner of each lot, or portion of lot, if known to the superintendent, and if such owner be unknown, the word "Unknown" shall be written opposite the number of the lot (but an assessment made to a person not the owner shall not render such assessment illegal), and the amount assessed thereon, the number of each lot, or portion of lot, assessed, and shall have attached thereto a diagram showing the assessment district, and the relative location of each lot assessed to the work proposed to be done, each lot being numbered in said assessment and diagram; and when completed, shall be signed by said superintendent, and transmitted to the board of aldermen.

§ 73. At the first meeting of the board of aldermen, after the receipt by it of the assessment made by said superintendent, as soon thereafter as may be

practicable, it shall cause notice of the time and place of the hearing of all objections to said assessment to be published for at least five days (Sundays and non-judicial days excepted), prior to the time of such hearing, in two daily newspapers, one published as a morning edition and one as an evening edition, in such city, or city and county. All objections shall be heard in open session of said board of aldermen. At said hearing said board of aldermen may alter, modify, or confirm said assessment, as it shall deem proper; and said superintendent shall thereupon record said assessment and diagram in a book to be kept by him for that purpose. When so recorded, the several amounts assessed shall be deemed a tax levied upon the lands described in said assessment and diagram, upon which they are respectively assessed, and shall be a lien upon such parcels of land. Said superintendent shall give to each assessment a number by which the fund collected for said work shall be known, and shall immediately after the record of said assessment, as hereinbefore provided, deliver the said assessment and diagram to the tax collector of such city and county, who shall thereupon cause to be published for ten successive days (Sundays and non-judicial days excepted), in two newspapers of general circulation, one of which shall be published as a morning edition and one as an evening edition, published in such city, or city and county, a notice containing a description of the proposed improvement, and of the portion of street or streets upon which the same is proposed to be done, that the same is in his hands for collection; that if said assessment is not paid within fifteen days from the date of the last publication of such notice, that the same will be delinquent; that the property assessed, and upon which the assessment remains unpaid, will be sold by said tax collector for said assessment, a brief description of the property assessed, the amount assessed thereon, and the time and place of sale, which shall be not less than five nor more than ten days after such delinquency.

§ 74. On the day fixed for the sale, said tax collector, between the hours of ten a. m. and three p. m., must commence the sale of the property advertised, upon which the assessment remains unpaid, and sell the same at public vendue, in the office of said tax collector, to the person who will take the least quantity of the respective parcels of land assessed, and pay the assessment thereon, together with two dollars to said tax collector for the duplicate certificate of sale. If the purchaser does not forthwith pay the amounts of the assessment and costs by him bid, the tax collector shall immediately proceed to sell such parcel or parcels again, in the same manner, for the amount of said assessment and costs.

§ 75. After receiving the amount of the assessment and costs, said tax collector must make out in duplicate a certificate, dated on the day of sale, showing the name of the person assessed, when known, a brief description of the property sold, the street improvement for which the assessment was levied, the number of the assessment, that it was sold for an assessment, the amount thereof, that the same is subject to redemption at any time within one year after sale, and specifying the date when the purchaser will be entitled to a deed; and upon payment to said tax collector of the fee for recording the same, said tax collector shall deliver one of such duplicates to the purchaser, and the same day file the other in the office of the recorder of the county, or city and county, who shall record the same.

§ 76. Upon filing the said duplicate in the office of said recorder, the lien aforesaid is vested in the purchaser, and is only divested by payment to him, or to the treasurer of such city, or city and county, for his use, of the purchase money and costs, and two per centum per month and fraction of a month up to date of redemption thereon. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase.

§ 77. If property is not redeemed within twelve months from the date of such sale, the tax collector must make to the purchaser, or his assignee, a deed, reciting substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The matters recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged, shall be prima facie evidence that:

1. The property was assessed as required by law;
2. That the assessment was not paid;
3. That the property was sold at the proper time and place, and by the proper officer;
4. That the person who executed the deed was the proper officer therefor;
5. That the title to the property therein described is vested in the purchaser, his heirs, or assigns, free from all encumbrances, except taxes for purposes of revenue.

§ 78. Said tax collector shall daily pay into the treasury of such city, or city and county, to the credit of the proper street-improvement fund, all moneys collected by him on account of such fund, and shall, upon the receipt of any assessment, mark the same paid upon the assessment roll, and shall receipt to the person paying the same therefor, which receipt shall show the number of the street-improvement fund, the work done, the number of the lot upon which the assessment is paid, and the amount thereof.

§ 79. When the full amount of such assessment has been collected by said tax collector, the said collector shall certify to the superintendent of streets that the same has been collected and paid into the treasury of such city, or city and county. Upon the receipt of such certificate from the tax collector, the said superintendent shall forthwith notify the person whose proposal shall have been accepted by the municipal council, as aforesaid, of the payment of such money into the treasury, and that such city, or city and county, is ready to enter into a contract with such person for such work, in pursuance of said proposal; and said superintendent shall hold himself in readiness to execute said contract on behalf of such city, or city and county. The board of aldermen may extend the time of performance of the contract, as fixed by the contract of specifications, upon the recommendation of said superintendent; but the time of the performance shall in no event be in any manner extended beyond sixty days after the time fixed in such specifications or contract for the completion of said work.

§ 80. Whenever any contract shall have been completed to the satisfaction and acceptance of the superintendent of streets, he shall deliver to the contractor a certificate to that effect, and shall also notify said board of aldermen that said work and improvement, and the contract therefor, have been completed to his satisfaction and acceptance, and that he has given to said contractor his certifi-

cate to that effect. Thereupon said board of aldermen shall direct the clerk of said board to give notice by publication for five days, in a newspaper published and circulated in such city, or city and county, that said work and improvement, and the contract therefor, have been completed to the satisfaction and acceptance of the superintendent of streets of such city, or city and county.

§ 81. Any person owning property which has been assessed to pay the cost and expenses of such work and improvement, feeling aggrieved at the manner in which such work and improvement shall have been done, or feeling aggrieved at any act or determination of said superintendent of streets in relation to said work and improvement subsequent to the date of the execution of the contract therefor, shall, within five days from the first publication of said notice, appeal to said board of aldermen by briefly stating their objections in writing, and by filing the same with the clerk of said board. At the meeting of the board next ensuing after the expiration of said five days allowed above for filing said objections, the said board, if no objections have been filed, shall, by resolution, ratify and confirm all said acts of said superintendent of streets, and shall accept such work and improvement. But if any such objections last aforesaid shall have been filed within said five days, then said board shall fix the time for hearing such objections, and shall direct the clerk of said board to notify all persons desirous of being heard upon said objections of the time and place when and where said board will hear all parties desiring to be heard upon the same. Said notice shall be in writing, and shall be given by posting the same in three of the most conspicuous public places in such city, or city and county, and published five days in two daily newspapers (one morning and one evening edition), at least five days before the time set for said hearing. At the time and place fixed for said hearing of said objections, said board shall proceed to hear all parties present and desiring to be heard upon the matters specified in such objections. And whenever said board shall have determined, by personal inspection or otherwise, that said work and improvement objected to have been completed in all respects according to the contract therefor, they shall, by resolution, accept said work and improvement, and ratify and confirm all said acts of said superintendent of streets in relation thereto.

§ 82. If, upon such hearing, said board of aldermen shall determine, by personal inspection or otherwise, that said work and improvement have not been performed according to the contract therefor, then they shall notify the said superintendent of streets to that effect, specifying in said notice to him the particulars in which said contract has not been performed. And said superintendent of streets shall thereupon at once cause said contractor to complete said work and improvement under the contract therefor in those particulars specified by said board in said notice to said superintendent of streets. Whenever said board shall ascertain that said work and improvement have been completed in all respects according to the terms of the contract therefor, they shall, by resolution, accept such work and improvement. All acts and determinations of said board of aldermen upon appeals, under the provisions of this and the next preceding section, shall be final and conclusive upon all persons entitled to an appeal thereunder.

§ 83. Whenever any work or improvement shall have been so completed upon any street, lane, alley, court, or place in such city, or city and county, for the

payment of costs and expenses of which an assessment shall have been levied and collected under the provisions of this act, the said board of aldermen shall, by resolution, direct the treasurer to pay out of the appropriate fund, at the expiration of fifteen days from the passage of such resolution, to the contractor who shall have so completed said work and improvement, the amount to which he is entitled under the terms of his contract; provided, however, that such payment by the treasurer shall be made subject to the following provisions, to wit: that any person or persons who have performed labor upon or furnished materials for the construction of said work or improvement, may file within said fifteen days, with the treasurer, any written claim or claims he or they may have on account of such labor performed or materials furnished; and at the expiration of said fifteen days, said treasurer shall pay to said contractor the amount specified in said last-named resolution, less the aggregate amount of all such claims, if any, theretofore filed in accordance with the provisions of this section. Should any money be retained by said treasurer on account of such claim or claims, he shall pay over the amount of each claim only upon the order therefor of said contractor, indorsed by the claimant entitled thereto, or upon the order therefor of any court of competent jurisdiction.

§ 84. And when all moneys required to be paid by the said treasurer, under the last preceding section, shall have been by him paid, as required in said section, if there is any money remaining in the fund out of which said payments shall have been made as aforesaid, it shall be the duty of said treasurer immediately to report the amount of said remaining moneys to said board of aldermen. Thereupon it shall be the duty of said board to empower and direct said treasurer to distribute and repay such remaining moneys, and in the proportion of the amounts of the original assessments, to the persons by or for whom said original assessments were paid, or to their legal representatives. And it shall be the duty of said treasurer, in each instance of such repayment, to require, receive, and file away a receipt of said proportionate amount from said persons or their legal representatives. And in no case shall a contractor who has failed to fulfil the terms and conditions of his contract be entitled to receive any portion of the contract price therefor, and he shall be deemed to have forfeited all right to recover or receive any compensation whatever under said contract.

§ 85. No contract to do any work upon any accepted streets, other than cleaning streets and sewers, shall be let, but such work shall be done under the direction of the superintendent of streets, by laborers employed by such city, or city and county, through said superintendent, at such wages as may be from time to time fixed by the municipal council. All contracts for materials necessary to be used for work on accepted streets must be given by the municipal council to the lowest bidder offering adequate security, after due public notice, for not less than five days, in at least two newspapers published in such city, or city and county.

§ 86. In case of urgent necessity, the superintendent of streets may, and it shall be his duty to, repair any of the unaccepted public streets, sewers, or crossings cornering thereon; and the expense of the same shall be paid out of the street department fund, in the same manner as provided for the improvement of accepted streets; and all such repairs shall be made in uniformity with the work to be repaired, but such repairs between two main streets shall not exceed in cost

the sum of two hundred dollars, and the repairs of any crossing shall not exceed in cost the sum of one hundred dollars; provided, the sums so expended shall not exceed the sum of two thousand dollars in any one month. Such work, and the material therefor, shall be performed and provided in the same manner as provided in the foregoing section concerning labor and material for accepted streets.

§ 87. No recourse shall be had against such city, or city and county, for damage to person or property suffered or sustained by or by reason of the defective condition of any street or public highway of such city, or city and county, whether originally existing or occasioned by construction, excavation, or embankment, or want of repair of said street or public highway; and whether such damage be occasioned by accident on said street or public highway, or by falling from or upon the same; but if any person while carefully using any street or public highway of such city and county, graded, or in course of being graded, or carefully using any other street or public highway leading into or crossing the same, be injured, killed, lost, or destroyed; or any horses, animals, or other property be lost, injured, or destroyed, through any defect in said street or public highway, graded, or in course of being graded, as aforesaid, or by reason of any excavation or embankment in or of the same, or by falling from or upon such embankment or excavation, then the person or persons upon whom the law may impose the duty either to repair such defect or to guard the public from the excavation, embankment, or grading aforesaid, and also the officer or officers through whose official neglect such defect remained unrepaired, or said excavation or embankment remained unguarded as aforesaid, shall be jointly and severally liable to the person or persons injured for the damages sustained.

§ 88. The superintendent of streets may require, at his option, by notice in writing, to be delivered to them personally or left on the premises, the owners, tenants, or occupants of lots or portions of lots liable to be assessed for work done under the provisions of this chapter, to improve forthwith any of the work mentioned in section sixty-seven of this act in front of the property of which he is the owner, tenant, or occupant, to the center of the street or otherwise, as the case may require, or to remove all filth, sand, earth, or dirt from the street in front of the premises; and, by a like notice, to be served personally upon the president or any officer of a railroad corporation or company, or to be left at the office of said corporation or company, to require such corporation or company to improve forthwith any work mentioned in this chapter, which said corporation or company are required by law to do and perform; said notice to specify what improvement is required or work is to be done. After the expiration of five days, if such notice shall not have been complied with, such proceedings shall be taken by the proper authorities to cause the moneys necessary for the doing of such work to be paid into the treasury as is hereinbefore provided in reference to work and improvements upon unaccepted streets, and to be paid for in the same manner.

§ 89. Notices in writing, which are required to be given by the superintendent of streets, under the provisions of this chapter, may be served by any police officer, or by any male citizen over the age of twenty-one years; and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent (who is hereby authorized to administer oaths), or any other person authorized to administer oaths. The superintendent of streets shall keep

a record of the fact of giving such notices and proof of service, and shall keep the original proof thereof.

§ 90. 1. On or before the fourth Monday of July, annually, the municipal council of such city, or city and county, shall levy the amount of taxes for city, or city and county, purposes, required by law to be levied upon all property not exempt from taxation; said amount to be such as the said council may deem sufficient to provide for the payment of all demands upon the treasury authorized by law to be paid out of the same; provided, that such taxation exclusive of any and all special taxes, now or which hereafter may be authorized by law, shall not in the aggregate exceed the rate of one dollar upon each one hundred dollars valuation of the property assessed; provided further, that the said municipal council shall, in making the said levy of taxes, apportion and divide the taxes so levied, and to be collected and applied to the several specific funds known as the corporation debt fund, general fund, school fund, street light fund, street department fund, or other fund provided for by law or by the said council, according to the estimate of said council of the necessities of the said funds, except that the rate for the school fund shall not exceed thirty-five dollars for each pupil who shall have attended and been taught the preceding year; and provided further, that the said municipal council shall authorize the disbursement of said money for the purposes hereafter mentioned; and at the close of each fiscal year the said council shall direct the treasurer to transfer all surplus moneys of all funds, excepting the school fund, after liquidating or providing for all outstanding demands upon said funds, to the general fund; but no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund, until all the indebtedness arising in any fiscal year, and payable out of said funds so raised for said fiscal year, shall have been paid and discharged.

2. The corporation debt fund shall be applied to and used for the payment of the interest, and to extinguish or provide for the extinguishment of the lawfully contracted funded debts of such city, or city and county, in accordance with laws in force at the time of the organization of such city, or city and county, under this act.

3. The general fund shall be applied and used for the payment of all sums authorized by law to be paid out of the general fund and not otherwise provided for in this chapter.

4. The school fund shall be applied and used for the payment of all sums authorized by law to be paid out of the school fund.

5. The street light fund shall be applied and used in the payment for lighting the streets of such city and county, and for the repair of lamps and posts, in pursuance of any existing or future legal contract of such city and county.

6. The street department fund shall be applied and used for repairing and improving all streets, lanes, and the crossings thereof, which shall have been or hereafter may be accepted, so as to become a charge upon such city and county; for cleaning streets, lanes, crossings and sewers; and for the expense of improvements of streets in front of school lots; for all street work in front of or assessable upon property belonging to such city and county; for all street work on the water front of such city and county, not by law assessable upon private property; for all work authorized by the said council, upon the recommendation

of the superintendent of streets, as immediately essential for the safety of life, limb, or property, or necessary for public health, or which cannot be by law assessed upon private property, and for such other objects relating to streets and highways as shall be directed by law or said council to be paid therefrom. All moneys received from licenses on vehicles, from the income from street railroads, from fines and penalties for violation of any law or ordinance regulating vehicles on the public streets, shall be paid into the street department fund.

§ 91. No payment can be made from the treasury or out of the public funds of such city, or city and county, unless the same be specifically authorized by law, nor unless the demand which is paid be duly audited, as in this chapter provided, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the auditor in favor of any person, officer, company, or corporation, in any manner indebted thereto without first deducting the amount of such indebtedness, nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required by law; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law, or by the regulations established by the municipal council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other act of the legislature regulating the duties of such officer, on being required in writing to comply therewith by the president of the board of aldermen, or any member of the finance committee of the municipal council; nor in favor of any officer for the time he shall have absented himself without lawful cause, from the duties of his office, during the office hours prescribed in this chapter; and the auditor may examine any officer receiving a salary from the treasury, on oath, touching such absence.

§ 92. The term "audited," as used in this chapter with reference to demands upon the treasury, is to be understood [as] their having been presented to and passed upon by every officer and board of officers, and finally allowed as required by law; and this must appear upon the face of the paper representing the demand, or else it is not audited.

§ 93. Every demand upon the treasury, except the salary of the auditor, and including the salary of the treasurer, must, before it can be paid, be presented to the auditor for such city, or city and county, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of such city and county is authorized by law and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the auditor, or the municipal council, or either branch thereof, or any board, committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. No demand can be approved, allowed, audited, or paid, unless it specify each several item, date, and value composing it, and refer to the law, by title, date, and section, authorizing the same.

§ 94. The demand of the auditor for his monthly salary shall be audited and

allowed by the president of the board of aldermen. All other monthly demands on account of salaries, allowances, or compensations fixed by law or this act, and made payable out of the treasury of such city, or city and county, may be allowed by the auditor without any approval. All demands payable out of the school fund must, before they can be allowed by the auditor, or paid, be previously approved by the board of education, or by the president thereof, and superintendent of schools, acting under express authorization of said board. Demands for teachers' wages, or other expenses appertaining to any school, cannot be approved, allowed or audited to any amount exceeding the share of school money which such school will be entitled to have apportioned to it during the current fiscal year. All other lawful demands payable out of the treasury, or any public funds of such city, or city and county, and not hereinbefore in this section specified, must, before they can be allowed by the auditor in any manner, or recognized, or paid, be first approved by the municipal council, except, if the demand be under two hundred dollars, by the mayor and two members of the board of aldermen, appointed by the said board for that purpose, with power to act under and subject to its instructions and regulations during recess of the said board. The auditor must number and keep a record of all demands on the treasury allowed by him, showing the number, date, amount, and name of the original and present holder, on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers, or board it has been so approved; and it shall be deemed a misdemeanor in office for the auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

§ 95. The mayor, mayor's clerk, auditor, auditor's clerk, chief of police, police commissioners, president of the board of education, each member of the municipal council, and every other officer required by law or ordinance to allow, audit, or certify demands upon the treasury, or to perform any other official act or function, shall have power to administer oaths and affirmations, and take and hear testimony concerning any matter or thing concerning any demand upon the treasury, or otherwise relating to their official duties. Every officer who shall approve, allow, or pay any demand on the treasury not authorized by law, or by a valid ordinance of the municipal council, passed in accordance with the same, or in case it is the act of a board, who shall, as a member thereof, vote for the same, shall be liable to the city, or city and county, individually, and on his official bond, for the amount of the demand so illegally approved, allowed, or paid. Every citizen shall have the right to inspect the books of the auditor, treasurer, secretary of the board of aldermen, and clerk of the house of assistant aldermen, at any time during business hours. Copies or extracts from said books, duly certified, shall be given by the officer having the same in custody, to any citizen demanding the same and paying fifteen cents per folio of one hundred words for such copies or extracts.

§ 96. Every lawful demand upon the treasury, duly audited as in this chapter required, shall in all cases be paid on presentation, and canceled, and the proper entry thereof be made, if there be sufficient money in the treasury belonging to the fund out of which it is payable; but if there be not sufficient money belonging to said fund to pay such demand, then it shall be registered in a book to be kept by the treasurer for that purpose, showing its number, when presented,

date, amount, name of the original holder, and on what account allowed, and out of what fund payable, and being so registered, shall be returned to the party presenting it, with an indorsement of the word "Registered," dated and signed by the treasurer.

§ 97. Whenever any audited demand has been presented to the treasurer and not paid, and it be made known to the president of the board of aldermen, he shall proceed immediately to investigate the cause for such non-payment, and if it be ascertained that the demand has been illegally and fraudulently approved or allowed, he shall cause the officer guilty of such illegal and fraudulent approval or allowance to be suspended and proceeded against for misconduct in office. If he ascertains that the demand has been duly audited, and that the treasurer has funds applicable to the payment thereof, which, without reasonable grounds for doubt as to the legality of such payment, he refuses to apply thereto, he shall proceed against him as a defaulter. If it be ascertained that the demand was not paid for want of funds, then he shall cause the tax collector, or other officer or person who ought to have collected or to have paid the money into the treasury, if they have been grossly negligent therein, to be proceeded against according to law and without delay.

§ 98. The treasurer, for all money received into the treasury, and all other officers of such city, or city and county, receiving money from the treasury for disbursement, shall give receipt for all moneys by them received, which receipt shall be presented to and countersigned by the auditor. The auditor, before countersigning any such receipt, shall number it and make an entry in a book of record to be kept in his office for that purpose, of the number, date, and amount, by whom and in whose favor given, and on what account. No such receipt shall be valid as evidence in favor of the person or officer receiving it till presented to the auditor and countersigned as aforesaid; and any person or officer using or offering to use such receipt as evidence in favor of such person or officer, of the payment specified in it, without being first countersigned as above required, shall forfeit to such city, or city and county, double the amount of money specified in such receipt.

§ 99. If any person feel aggrieved by the decision of the auditor, or other proper officer or officers of such city, or city and county, except the board of education, in the rejection of or refusal to approve or allow any demand upon the treasury presented by such person, he may appeal and have the same passed upon by the municipal council, whose decision thereon shall be final; and if the said council shall approve and allow the demand, it shall afterwards be presented to the auditor, and entered in the proper book, in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction; provided, that from the decision of the president of the board of education and superintendent of schools, refusing or not agreeing to allow any demand payable out of the school fund, the appeal shall be taken to the board of education, whose decision shall be final; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction.

§ 100. In all cases of such appeals to the municipal council, or the board of education, if, in the opinion of said council or of said board deemed expedient, the opinion of the city, or city and county, attorney shall be required, and obtained in writing, read, and filed; and upon such appeal, and in all other cases upon the approval or allowance of any demand upon the treasury or school fund, the vote shall be taken by "yeas" and "nays," and entered upon the records.

§ 101. The president of the board of aldermen, in conjunction with the auditor and the chairman of the house of delegates of such city, or city and county, shall, every month, examine the books of the treasurer and other officers of such city, or city and county, having the collection and custody of the public funds, and shall be permitted, and it shall be their duty, to see and count over all the moneys remaining in the hands of such treasurer, or other officer, after having previously ascertained the amount which should be remaining in his hands. The finance committee shall also, twice a year, viz., on the first Monday in July and January, make the same examination of books, count said money, and report the result to the municipal council. If they ascertain clearly that such treasurer, or other officer, is a defaulter, they shall forthwith take possession of all funds, books, and papers belonging to such office, and the president of the board of aldermen shall appoint a person to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay, and until the said officer shall be restored to duty or office, or until his successor shall be appointed, or elected and qualified. The person so appointed shall give bonds and take the oath of office in the same manner as was required of the officer whose place he is appointed to fill. If the treasurer, or other officer so discharged as defaulter, be acquitted thereof, he shall resume his duties.

§ 102. Neither the municipal council, the board of education, nor any other board, commission, committee, officer, or person, shall have power to authorize, allow, contract for, pay, or render payable, and they are prohibited from authorizing, allowing, contracting, paying, or rendering payable, in present or future, in any one month, any demand or demands, liability or liabilities, against the treasury of such city, city and county, or the funds thereof, which shall, in the aggregate, exceed one twelfth part of the amount allowed by laws existing at the time of such contract, authorization, allowance, payment or liability, to be expended within the fiscal year of which said month is a part; provided, however, that if, at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the municipal government of such city, or city and county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended by order of the municipal council, for the same purpose allowed by law in any succeeding month of the fiscal year. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made, in violation of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such city, or city and county; and all officers of such city, or city and county, are hereby charged with notice of the condition of the treasury of such city, or city and county, and the extent of the claims against the same.

§ 103. It is the duty of the superintendent of streets to keep an exact account of all street and sewer work upon accepted streets, and it shall be the duty of the building committee to keep an account of all work done on all public buildings and every other expenditure chargeable against the treasury in any of the departments under charge of said building committee and officers; and it is the duty of the superintendent of schools, the president of the board of education, the president of the board of fire commissioners, the president of the board of election directors, the president of the board of police commissioners, and every other officer and board having the power to contract any demand, or to aid in the contraction of any demand, against said treasury, to keep an exact and full account of all purchases, expenditures, and liabilities made or contracted in their respective departments; and for the purpose of making such accounts, said officers shall have power to demand and receive from every other city, or city and county, officer, detailed statements in writing, when necessary to keep said accounts, and it is hereby made the duty of any and all officers to furnish said statements when demanded; such accounts shall be constantly posted up to date, so that it can be known exactly at any time what part or proportion of the monthly sum allowed by this chapter and existing laws has been contracted for, paid, or rendered liable to pay in the present and future. Such accounts shall show every contract for street and sewer work, public buildings, purchases of material, or supplies, or other expenditure, in whatever department it is made, from its incipency through the various stages of progress to completion, with the amount to be paid for the same so far as the same is capable of exact estimation, and when not, then a sworn estimate by the proper officer of the probable cost. Whenever, at any time, the contracts performed or unperformed, claims due or to become due, exceed said one twelfth part of the amount that can be lawfully expended out of any fund in the current fiscal year, the president of the board, head of department, or other officer or board having the supervision of such expenditure, shall give notice thereof in writing, as to his or their department, to the auditor and the treasurer, and to the municipal council a notice in writing, served upon the clerks of each branch thereof, and shall post the same in his or their office, from which time no further contracts shall be made or expenditures authorized or allowed, until such time has elapsed as will allow of further proceedings consistent with the provisions of the law.

§ 104. Any failure or neglect on the part of any of said officers or boards, or members of boards, to comply with any of the provisions of the preceding sections, shall render such officer, and each member of such board consenting thereto, liable personally and upon his official bond to any contractor or other person suffering damage by said failure or neglect; but such contractor or person damaged shall have no remedy against such city, or city and county, and the said officers or members of boards authorizing or aiding to authorize, auditing, or allowing any claim or demand upon or against said treasury, or any fund thereof, in contravention thereof, shall be liable in person and on his official bond to the contractor or person damaged, to the extent of his loss. The treasurer paying any claim authorized, allowed, or audited in contravention of the provisions thereof shall be liable on his official bond to refund the same to such city, or city and county, and it shall be the duty of the city, or city and county, attorney to sue for the same, if necessary.

§ 105. In case of any great public calamity or danger, such as earthquakes, conflagrations, pestilence, invasion, insurrection, or other great and unforeseen emergency, the provisions of the three preceding sections may be temporarily suspended, as to any lawful contract, authorization, or expenditure necessary to avert, mitigate, or relieve such evil; provided, that such expenditure, contract, or authorization shall be passed by the unanimous vote of all members elected or appointed to each house of the municipal council, and entered in the journals of each house, and the character and fact of such emergency must be recited in the ordinance authorizing such action; and such ordinance must be approved by the mayor, auditor, and treasurer of such city, or city and county.

§ 106. All city, or city and county, official printing and advertising, for all departments thereof, excepting that of the sheriff's office, shall be let by the municipal council, during the month of January of each year, to the lowest responsible bidder, printing, publishing, and proposing to advertise in a newspaper of general circulation in such city, or city and county, and that has been in existence at the time of the letting of said contract at least three years; and provided, that any such newspaper may bid for the whole or any part of the advertising. The bids shall be opened by the board of aldermen, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. All such contracts, when awarded, shall be entered into and bonds taken by the clerk of the board of aldermen, in such sum and containing such conditions as the board of aldermen shall provide.

§ 107. All contracts relating to city, or city and county, affairs shall be in writing, signed and executed in the name of the city, or city and county, by the officer authorized to make the same; and in cases not otherwise directed by law, such contracts shall be made and entered into by the mayor. All contracts shall be countersigned by the auditor, and registered, by number and dates, in his office, in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a contract fails of completion, new bids shall be invited, opened, and awarded, as provided in this chapter in the first instance, until a sufficient contract is executed. In all cases when the board of aldermen have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, it may in its discretion, reject any and all bids, and cause the same to be readvertised. The provisions of this act, as to bids and contracts, shall be enforced by the municipal council by appropriate ordinances as to all bids, proposals, and contracts with such city, or city and county, or any department thereof.

ARTICLE IV.—EXECUTIVE DEPARTMENT.

§ 118. The mayor shall be the chief executive officer: shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this state, and a resident in such city, or city and county, for three years. It shall be his duty vigilantly to observe the official conduct of all public officers of such city, or city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they

execute their duties and obligations, especially in the collection, custody, administration, and disbursement of the public funds and property, for which purpose the books, records, and official papers of all boards, officers, and magistrates of such city, or city and county, shall at all times be open to his inspection. He shall take especial care to see that the books and records of all such officers are kept in legal and proper form; and any official defalcation, or wilful neglect of duty, or official misconduct, which he may have discovered, or which shall have been reported to him, shall at the earliest opportunity be laid before the municipal council, and before the grand jury, in order that the public interests shall be protected and the officer in default be proceeded against according to law. He shall, from time to time, give the municipal council information relative to the state of such city, or city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws of the state and the ordinances of the municipal council are enforced.

§ 119. Whenever and so long as the mayor, from any cause, is unable to perform his official duties, the board of aldermen shall designate one of their number as mayor pro tempore, who shall perform the same.

§ 120. The mayor may, by due notice, call special sessions of the municipal council, and shall specially state to them, when assembled, the objects for which they have been specially convened, and their actions shall be confined to such objects.

§ 121. The auditor shall be the head of the finance department of such city, or city and county, and as such required to be constantly acquainted with exact condition of the treasury, and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this chapter, and shall not follow or engage in any other occupation or calling while he holds said office. If he absents himself from his office during such office hours, except on indispensable official business or urgent necessity, he shall lose his salary for the day; and it shall be a part of his official duty to keep account of the times and occasions when he shall be so absent from duty. He shall be the general accountant of such city, or city and county, and as such it shall be his duty to receive and preserve in his office all accounts, books, vouchers, documents, and papers relating to the accounts or contracts of such city, or city and county; its debts, revenues, and other fiscal affairs, and to adopt a proper mode and manner of double-entry bookkeeping, and keep the accounts of such city, or city and county, general and special, in a systematic and orderly manner. He shall state and render all accounts filed or kept in his office between the city and other persons or body corporate, except when otherwise provided by law or ordinance. He shall have power to administer oaths, and shall require settlements of accounts to be verified by affidavit whenever he thinks proper. He shall be responsible for all acts of his employees.

§ 122. The treasurer of such city, or city and county, shall receive and safely keep in a secure fireproof vault, to be prepared for that purpose, all moneys belonging to or which shall be paid into the treasury, and shall not loan, use, or deposit the same, or any part thereof, to or with any banker or

other person, nor pay out any part of said moneys except on demand authorized by this chapter, and after they have been duly audited. He shall keep the key of said vault, and not suffer the same to be opened except in his presence. At the closing up of the same each day he shall take an account and enter in the proper book the exact amount of money on hand, and at the end of every month he shall make and publish a statement of all receipts into and payments from the treasury, and on what account. If he violates any of the provisions of this section he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly. If he loan or deposit said moneys, or any part thereof, contrary to the provisions of this section, or apply the same to his own use, or the use of any other person, in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the treasury, he shall be deemed guilty of a felony, and, on conviction thereof, shall suffer imprisonment in the state prison for a period not less than three months nor more than ten years.

§ 123. The treasurer shall keep the money belonging to each fund separate and distinct, and shall in no case pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this chapter, without an express ordinance of the municipal council, which can only be made during or after the end of the third quarter of the fiscal year, by a vote of two thirds of each house. The said treasurer shall give his personal attendance at his public office during the office hours fixed by this chapter, and if he be absent himself therefrom, except on account of sickness or urgent necessity during such office hours, he shall lose his salary for the entire day on which he was absent.

§ 124. The county clerk of such city and county shall take charge of and safely keep, or dispose of according to law, all books, papers, and records which are or may be filed or deposited in his office, and of all the courts of which he is clerk; and he shall not allow any paper, files, or records to leave his custody, except when required by the judges of the courts, to be used by them or any of them.

§ 125. No judge or officer of any court shall make any order for the delivery by the county clerk of such city and county, of any paper, files, or records in his custody, except bills of exceptions and statements on motion for a new trial; nor shall the courts, or judges thereof, have any power to make orders for the delivery of any certificate of incorporation, bonds, or other papers filed with the said county clerk. Whenever any of said papers are required for evidence in any of the courts within such city and county, the county clerk, or his deputies, shall produce the same under subpoena or order of the court, or furnish certified copies of the same on application, on payment to said clerk for said copy at the rate of ten cents per folio for each hundred words, which shall be paid into the city and county treasury by him.

§ 126. Neither the county clerk nor any of his deputies shall be required to attend as witnesses, in their official capacities, outside of such city and county, except in criminal cases, unless his expenses be paid at the rate of ten cents per mile to and from the place where he may be required, and three

dollars a day for each day's attendance. A sufficient number of deputies shall be assigned by him as court-room clerks to the various courts of which he is the official clerk, while such courts are in session, and to do duty in the office when such courts are not in session. He shall transfer such deputies to duty in court, or at his office, as the exigency of the service may require, so as to efficiently perform the work in the most economical manner possible.

§ 127. On the commencement in or removal to the superior court of such city and county of any civil action or proceeding, he shall collect from the plaintiff, or party instituting such proceeding or filing the first papers therein, the sum of one dollar, and pay over the same at the end of each month to the treasurer of the law library provided for in this chapter; and the payment of the sum of one dollar shall be a condition precedent to the commencement of such action or proceeding, for which sum so required to be collected he and his sureties shall be responsible on his official bond.

§ 128. The tax collector, upon the final settlement to be made by him as such tax collector, according to the requirements of the law, shall be charged with, and shall pay into the hands of the treasurer, the full amount of all taxes paid to him under protest or otherwise, or by him collected and not previously paid over, without any deduction of commissions, fees, or otherwise; he shall also be charged with and be deemed debtor to the treasury for the full amount of all taxes due upon the delinquent list delivered to him for collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor. If the impossibility to collect any portion of such delinquent taxes have resulted from such negligence or defects in such assessment caused by the wilful misconduct of the assessor, then the assessor whose duty it was to make the assessment shall be liable and be deemed debtor to the treasury for the amount remaining uncollected for that cause.

§ 129. There shall be elected by the qualified voters of such city, or city and county, at the general state election, an assessor, who shall take office on the first Monday after the first day of January next following his election, and hold for the term of four years, and until his successor is elected and qualified. It shall be his duty to assess all taxable property within such city, or city and county.

§ 130. The sheriff shall attend in person, or by deputy, all the courts in and for such city and county, except the police courts. He shall obey the lawful orders and directions of such courts, and in all other respects conform to the laws regulating sheriffs in this state.

§ 131. The recorder of such city and county shall have the custody of all books, records, maps, and papers deposited in his office. He, or his chief deputy, when any papers are presented for registration, or to be copied, shall write on the margin of each paper so presented the number of folios paid for, and shall, in his monthly return to the treasurer, certify under oath the number of folios copied or registered by each deputy or copyist appointed by him; and such certificate of the recorder or his chief deputy shall be conclusive evidence to authorize the auditor to audit such certified accounts of such deputies or copyists monthly. He shall appoint as many copyists as

he shall deem necessary to the proper discharge of the duties of his office, who shall be paid at the rate of twelve cents per folio of one hundred words for all matters registered or copied by them respectively.

§ 132. The district attorney is the public prosecutor, and shall be an attorney of the supreme court, and shall attend the superior court of this state, in and for such city and county, and such other courts as may be hereafter established in and for the same, and conduct therein, on behalf of the people, all prosecutions for public offenses. He shall perform such other duties as are prescribed by law.

§ 133. The city, or city and county, attorney shall be an attorney of the supreme court, and shall prosecute and defend all suits and actions at law and in equity, and conduct all legal proceedings, in the courts and elsewhere, necessary to preserve and protect such city's, or city and county's, rights, whether such suits or proceedings be conducted in the name of such city, or city and county, or in the name of others. He shall give legal advice to the city government, and all the officers, boards, and departments thereof, when required so to do, and perform such other duties as such attorney as the municipal council shall from time to time prescribe. He shall keep in his office well-bound books of registry, in which shall be entered and kept a register of all actions, suits, and proceedings in which such city, or city and county, is interested. Each outgoing city, or city and county, attorney shall deliver such books and all other records, law reports, quarterly reports from municipal boards and officers, documents, statutes, papers, furniture, and property, in his possession, to his successor in office, who shall give him duplicate receipts therefor, one to be filed in the office of the auditor, and one to be retained by the outgoing city, or city and county, attorney.

§ 134. The public administrator of such city, or city and county, shall be subject to the orders of the superior court in and for such city, or city and county, and shall perform all the duties prescribed by law.

§ 135. The coroner of such city, or city and county, in addition to the duties imposed by law upon every coroner, shall keep a record of all inquests held by him, with a copy of all testimony and the inquisition of the jurors in full; and in case of loss of the original records, the same shall be admissible in evidence with like effect as the original would have been. He may appoint such deputies, and a messenger or messengers, as are allowed in this act, or as may be hereafter allowed by the municipal council of such city, or city and county. He shall receive no fees for any services rendered by him.

§ 136. The superintendent of streets shall keep a public office, in some convenient place, to be designated by the municipal council. His office shall be kept open as in this chapter provided. He shall not, during his continuance in office, follow any other profession or calling, but shall be required to devote himself exclusively to the duties of his said office. He shall have under his special charge the construction, reconstruction, repairing, and cleansing of all public sewers, manholes, sinks, drains, cesspools, and of the public streets, highways, alleys, places, and squares, excepting the parks. It shall be his duty to see that the laws, orders, and regulations relative to the public

streets and highways, alleys, places, and squares are carried into execution, and that the penalties therefor are rigidly enforced, as may be prescribed by the municipal council. He shall keep himself informed of the condition of all public streets, highways, alleys, places, and squares; and should he fail to see that the laws, ordinances, and regulations relating to the public streets, highways, alleys, places, and squares are carried into execution, after notice from any citizen of a violation thereof, such superintendent and his sureties shall be liable upon his official bond to any person injured in person or property by such official neglect.

§ 137. The city, or city and county, surveyor shall be engineer in chief of such city, or city and county, and of the sewerage system; shall make all necessary plans, surveys, maps, and drawings, and other necessary things, and keep the same in his office; and all such maps, plans, machinery, and drawings shall be the property of such city, or city and county, and remain in the office, and be transferred by the outgoing to the incoming officer. He shall do all necessary surveying and engineering for the streets, alleys, highways, and squares, at the request of the municipal council, or of any committee appointed by either branch of the same, and all or any other surveying and engineer[ing] work that such city, or city and county, may require, and of the public parks, at the request of the park commissioners.

§ 138. Within twenty days after their first meeting, the municipal council of such city, or city and county, shall appoint a suitable person as collector of licenses of such city, or city and county, who shall hold office for two years from and after his appointment, and until his successor shall be appointed and qualified. In case of a vacancy occurring by death or otherwise in the office of the collector of licenses of such city, or city and county, holding his office under the provisions of this chapter, the same shall be filled for the remainder of the unexpired term by appointment of the board of aldermen; and in case of the inability of said collector of licenses to act, his place shall, in the same manner, be temporarily filled until such disability is removed. The collector of licenses and his deputies are hereby authorized, empowered, and required to collect all the municipal licenses now required to be collected, or which shall hereafter be required to be collected by them, or either of them; and it shall be the duty of said collector of licenses, and his deputies, or assistant collectors, to attend to the collection of licenses, and examine all places of business and persons liable to pay licenses, and to see that licenses are taken out and paid for. They shall each have and exercise, in the performance of their official duties, the same powers as police officers in serving process or summons, and in making arrests; also shall each have and exercise the power to administer such oaths and affirmations as shall be necessary in the discharge and exercise of their official duties; and they, and each of them, are hereby empowered to enter any place of business for which a license by law is provided and required, free of charge, at their pleasure, and to demand the exhibition of any license for the current time from any person, or firm, or corporation engaged or employed in the transaction of any business for which a license is by law rendered necessary; and if such person, or firm or corporation, or either of them, shall be unable, or refuse, or neglect, or fail, to then and there exhibit such license, he, she,

or they, as the case may be, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished accordingly.

§ 139. The collector of licenses shall daily pay to the treasurer of such city, or city and county, all moneys so collected for licenses sold, or by him received as fees; and shall, under oath, at least once in each calendar month, and oftener when required so to do by the auditor, make to the auditor a report of all such licenses sold and on hand, and of all amounts so paid to the city, or city and county, treasurer; shall at such time exhibit to the auditor all unsold licenses in his hands, and the treasurer's receipts for all moneys paid into the treasury; and all licenses so signed by the license collector, or deputy license collector, or either of them, shall be as valid as if signed by the city, or city and county, treasurer. All fees so paid to him shall be placed to the credit of the proper fund by the treasurer.

§ 140. The department of police of such city, or city and county, shall consist of:

1. A board of police commissioners of such city, or city and county, consisting of five members, each of whom shall be a qualified voter, at least thirty years of age, and shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, for five years next preceding his appointment, four of whom shall be appointed by the governor and chief justice of the supreme court of the state of California, within thirty days after the organization of such city, or city and county, under this act, and who shall hold office for the term of four years from and after the first Monday next succeeding the date of their appointment, and until their successors are appointed and qualified; and in the month next preceding the expiration of the said term, and every four years thereafter, the said governor and chief justice of the supreme court shall appoint their successors, who shall hold office for the term of four years from and after the first Monday next succeeding the date of their appointment; but in making such appointments, the said governor and chief justice shall elect two qualified persons from each of the two dominant national political parties. Vacancies that may occur in the office of any of the members so appointed shall be filled by appointment by said governor and chief justice, of some suitable person of the same political party as that to which the last incumbent belonged, and for the remainder of the vacant term only. The four members appointed, as hereinbefore provided, shall meet in such city, or city and county, on the first Monday next succeeding the date of their appointment, and shall forthwith organize by electing one of their number president, and shall appoint the other member of said board, who shall be the chief of police of such city, or city and county. Every member of said board shall, before he enters upon the duties of his office, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of California; that I will faithfully discharge the duties of police commissioner according to the best of my ability; and that in the discharge of my duties I will make no appointment to, or removal from the police force for political or partisan reasons; and that I will, to the best of my ability, discharge the duties of said office impartially and uninfluenced by political considerations,

or any consideration other than that of the public good." Every member of said board who shall absent himself from such city, or city and county, for the continuous period of sixty days, shall, by force thereof, cease to be a police commissioner, and his office shall become vacant. No member of said board shall be eligible to any other office during his incumbency of the office of police commissioner. No member of said board shall, during his term of office, be a member of any convention, the purpose of which is to nominate candidates for office, nor act as a judge, inspector, clerk, or officer of any election, or primary election, or take part in any election except to deposit his vote; nor shall any member of said board, directly or indirectly, influence, or attempt to influence or control, the political action of any member of the police force of such city, or city and county, or any employee of said department; nor shall any member of said board collect, or suffer to be collected, from any member or employee of said department, any assessment or contribution for political purposes. A violation of any of the provisions of this section shall be a misdemeanor, and shall be cause for the immediate removal from office of the person guilty of such violation. The said board shall hold sessions at least once a month in the office of chief of police, or in such other convenient place as the municipal council of such city, or city and county, shall designate, or, in case of emergency, at such place as it shall select, and the clerk of the chief of police, hereinafter provided for, shall act as clerk of said board. Every member of said board, and the clerk of said board, shall have power to administer oaths in all matters pertinent to the business of their respective offices, and in all investigations pending before said board, or any member thereof. The said board shall keep a record of its proceedings. The said board shall have power:

1. To appoint, suspend, or remove any person from the police force of such city, or city and county; provided, however, that the chief of police shall only be removable in the manner provided by law for the removal of other municipal officers.

2. To prescribe all needful rules and regulations for the control, government, and discipline of said police force, and from time to time to alter or repeal the same, and prescribe penalties for the violation of any of them.

3. To hear and summarily determine all complaints of misconduct, inefficiency, or other charge against any member of said police force, and to take such action thereon as shall be conducive to the maintenance of the discipline and efficiency of the same.

4. To grant permits to all persons desiring to engage in the retail liquor business in such city, or city and county, and to revoke any such permit whenever it shall be made to appear to said board that the retail liquor business of the person to whom such permit was given is conducted in a disorderly or improper manner, or whenever it shall be made to appear that the person to whom such permit was granted has, after the grant of such permit, been convicted in the police or other court of such city, or city and county, of disorderly or improper conduct, or of the commission of any criminal offense upon the premises whereon such retail liquor business is conducted; provided, however, that whenever said board refuses to grant

such permit, or proposes to revoke such permit, the person who is refused such permit or whose permit is proposed to be revoked, shall be entitled to be heard before said board in person or through counsel, and to have free of charge all reasonable facilities for the full, fair, and impartial hearing on the merits of his application or opposition. In such permit shall be distinctly stated and described the name of the person to whom the same is given, and the premises on which such retail business is proposed to be carried on.

5. Upon the petition of any person, firm, or corporation, to appoint a special officer to do special service to be paid for by such person, firm, or corporation, specifying the boundary or locality at or within which he is to act as such special officer, which boundary or locality shall be described in his warrant of appointment; provided, that no special officer shall be appointed to act in any part of such city, or city and county, commonly known as the Chinese quarter; and provided further, that all special officers shall report daily to the chief of police, and be subject to his orders in case of emergency; and in no event shall such officers be paid by such city, or city and county.

6. To prescribe the badge of office and uniform to be worn by all members of the police force, and the badge of office to be worn by all special officers.

7. To allow and order paid out of the police contingent fund, for contingent expenses, any and all orders signed by the chief of police; provided, that the aggregate of such orders shall not exceed the sum of seven thousand two hundred dollars a year, which sum shall be set apart annually in the treasury of said city and county for this purpose.

8. To appoint substitutes, not to exceed four per centum of the police force, to serve under such regulations, and subject to such restrictions, as it may prescribe, and without pay from such city, or city and county.

9. To issue subpoenas, tested in the name of its president, and to enforce obedience thereto, and punish disobedience thereof, in the same manner and to the like extent as the justices' court of such city, or city and county; and to exercise the same powers as the said justices' court in preserving decorum in all open sessions of said board, and to punish any contempt committed thereat.

10. To designate the prisons to be used for the reception of all persons arrested, convicted, or sentenced for public offenses in cases not provided for by law or by ordinance; to establish stations and station-houses, or substations and substation-houses, at its discretion, for the accommodation thereat of members of the police force, and as places of temporary detention for persons arrested.

11. In its discretion, on conviction of a member of the force of any legal offense, or neglect of duty, or violation of the rules of the board, or neglect of or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or other breach of discipline, or immoral conduct, or any conduct unbecoming an officer, to punish the offending party by reprimand, forfeiting and withholding pay for a special time, suspension, or dismissal from the force; all such fines

shall be immediately paid into the treasury to the credit of the police life and health insurance fund.

12. To issue to every member of the police force a proper warrant of appointment, signed by the president and countersigned by the clerk of the board, which warrant shall contain the date of his appointment and his rank.

13. To make requisition on the municipal council of such city, or city and county, for all supplies or necessities that may be required in the administration of the department; provided, that the aggregate amount of the same, exclusive of salaries, shall not, in any one fiscal year, exceed the sum of five thousand dollars.

14. To annually, on or before the first day of August, report to the municipal council an estimate of the amount of money that will be required to pay all salaries of the department, and of the amount of money that will be required for the administration and support of the department in such year, specifying in detail the purposes and items for which the same will be required, with the estimated cost thereof, respectively.

15. To provide for the custody, care, restitution, sale, time, place, and manner of sale of all property that may come into the possession of the property clerk hereinafter provided for.

16. To control, care for, and manage the police life and health insurance fund hereinafter mentioned, which fund shall consist of the moneys retained from the monthly salaries of the members of the police force, fines collected from members of said force, and of such other moneys as may be contributed thereto by law, or ordinance, or by gift, devise, or bequest, and of all moneys to the credit of said fund at the time said board shall take office, and to invest the moneys of said fund in such of the following securities as shall seem most safe and profitable, viz., the bonds of such city, or city and county, the bonds of the state of California, and the bonds of the United States of America. The moneys and securities shall be held by the treasurer of such city, or city and county, who shall have no power to deposit, pledge, or in any other way part with the same, except on the order of said board.

17. To order paid, upon the death of any member of the police force, out of the police life and health insurance fund, to the heirs of such member, the sum of one thousand dollars.

18. To order paid, out of the police life and health insurance fund, to any police officer who shall resign by reason of bad health or bodily infirmity, the amount of the principal sum which such officer shall have contributed thereto.

19. To order paid, out of the police life and health insurance fund, to any officer dismissed for mere incompetency, not coupled with any offense against the laws of this state, an amount not exceeding one half of the principal which such officer may have contributed thereto; provided, that any officer dismissed for gross neglect or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

20. In case said police life and health insurance fund shall not be suf-

ficient to pay the demands on it, to cause such demands to be registered, and to be paid in their order out of the fund as received.

21. When the police life and health insurance fund shall exceed the sum of fifty thousand dollars, to allow and order paid out of the same, to any officer who shall have been permanently disabled while in the discharge of his duty as such officer, such sum as in their judgment they shall deem proper, not to exceed one thousand dollars; but in no case shall said fund be reduced thereby below the sum of fifty thousand dollars. The president of said board shall receive a salary of three thousand dollars per annum. The other members of said board shall each receive a salary of one thousand two hundred dollars per annum, payable monthly, at the end of each and every month.

2. A chief of police, appointed as hereinbefore provided, who shall have power to select and designate one police officer to serve as clerk to the chief of police; one police officer to serve as property clerk, who, before entering upon his duties, shall give bond, with good and sufficient sureties, in the sum of ten thousand dollars, to such city, or city and county, to be approved as in cases of other official bonds, which bond shall be filed with the auditor of such city, or city and county; twelve detective officers, and thirty sergeants of police. He shall have the sole and exclusive control, direction, and superintendence of the city prisons of such city, or city and county, and may detail to duty therein such number of officers as the exigencies shall require. In the suppression of any riot, public tumult, disturbances of the public peace, or organized resistance against the laws, or public authorities, in the lawful exercise of their functions, he shall have all the powers that are now are or may be conferred upon sheriffs by the laws of this state; and his lawful orders shall be promptly executed by all police officers, and every citizen shall also lend him aid, when required, for the arrest of offenders and the maintenance of public order. In case of great public emergency or danger, he may appoint an additional number of policemen of approved character for honesty and sobriety, who shall have the same powers as other police officers, but who shall act without pay. In case of imminent danger of riot, or actual riot, or organized resistance to the laws, he shall have power, and it shall be his duty, if in his opinion the organized police force be insufficient in number or unequal in strength to preserve the peace and maintain public order, to make his requisition on the governor, or in case of urgency on the nearest military commander in the National Guard of California, for such military force as may be necessary for the occasion; and such military force shall be placed under his command until the restoration of order and tranquillity, or until the governor declares such city, or city and county, in a state of insurrection, as provided by law. He shall keep a public office, which shall be open, and at which he, or in case of his necessary absence, a captain of police or sergeant of police by him designated for that purpose, who shall have, during such absence, the same powers as are conferred by law upon the chief of police, shall be in attendance at all hours of the day and night. In case of his absence from his office, it shall be made known to the captain or sergeant of police in attendance where he can be found, if needed. He shall designate one or more police officers to attend constantly upon the police court to carry on

the business, and to execute the orders and process of said court. He shall command, supervise, and direct the police force; and shall observe, and cause to be observed and enforced, the laws and ordinances within such city, or city and county. He shall see that all lawful orders and process of the police court are promptly executed; and shall exercise such other powers connected with his office as may be prescribed by law, or by the rules and regulations adopted by the board of police commissioners. He shall acquaint himself with all the statutes and laws in force in this state defining public offenses and nuisances and regulating the criminal proceedings; and shall procure and keep in his office the statutes of this state and of the United States, and all elementary works on those subjects. He shall give information and advice touching said laws gratuitously to all police officers asking for it. He shall have power from time to time to dispose of such sum or sums for incidental expenses as in his judgment shall be for the best interest of such city, or city and county; provided, that the aggregate of all such sums shall not, in any one fiscal year, exceed the sum of seven thousand two hundred dollars; but all sums so disbursed or paid shall be subject to the approval of the said board. He may, for good cause, grant leave of absence for not more than thirty days to any member of the police force; but officers absent from the city within or without the state on official business shall not be deemed to be absentees. As chief of police, he shall hold office for the term of four years from his appointment, and shall receive a salary of four thousand dollars per annum, payable monthly, at the end of each and every month.

3. Six captains of police, who shall be appointed by the board of police commissioners from the members of the police force, who shall be assigned to such duty, and who shall be subject to such rules and regulations, as the chief of police shall prescribe. They shall receive a salary of two hundred dollars per month each, payable monthly, at the end of each and every month.

4. As many police officers, not exceeding five hundred, as the board of police commissioners may determine to be necessary, to be appointed by said board; but it shall be the duty of said board, on its first organization, to appoint as members of the police force the members of the police force, if any, then in service, unless such members be incompetent or incapable to serve. Every person applying for appointment to said police force, unless he be a member of the police force then existing in such city, or city and county, shall produce and file with the said board a certificate, signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of such city, or city and county, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that the applicant is of good repute for honesty and sobriety, and they believe him to be, in all respects, competent and fit for the office. All such certificates shall be preserved in the office of said board, and shall not be returned to the applicant. Every appointee to said police force must be a citizen of the United States and of this state, able to read and write the English language, and a resident of such city, or city and county, at least five years previous to his appointment, except such member of said police force as may be in service at the time of the organization of said board; every appointee shall not be less than twenty-five nor more than

forty years of age, and not less than five feet and seven inches in height, and shall, after his nomination, and before his appointment, pass a thorough examination by the surgeon of police, or by any physician appointed by said board, and be found on such examination to be sound in health, and to possess the physical qualifications required for recruits for the United States army. The police officers, in subjection to the rules and regulations of the said board, to the orders of the respective captains, and under the general direction of the chief of police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbances of the public peace, the execution of process from the police court in causing the abatement of public nuisances, and the enforcement of the laws and regulations of the police. They shall, as soon as practicable, upon an arrest, under penalty of dismissal from the force, or of a fine of not more than one hundred dollars, or of both, at the discretion of the board, convey in person the offender before the nearest sitting magistrate. If the arrest is made during the hours that the magistrate does not regularly hold court, or if the magistrate is not holding court, such offender may be detained in a station-house until the next public sitting of the magistrate, and no longer, unless discharged on bail, according to law. No member of the police force shall be eligible to any other office while a member of such force, nor shall he take any part whatever in any convention held for the purposes of a political party; nor shall he be a member of any political club; nor shall he be allowed to interfere with politics on the day of election, or at any time while employed on said force, except to cast his vote. No member of said police force while on duty shall enter into any liquor saloon, bar-room, or place where liquors are retailed, except when necessary in the discharge of his duties, on penalty of reprimand, fine, suspension, or removal from office. No member of the police force shall devote his time to any other profession or calling, become bail for any person charged with any offense whatever, solicit counsel or attorneys for prisoners, receive any present or reward for official services rendered, or to be rendered, unless with the knowledge and approbation of a majority of said board; such approbation to be given in writing and certified by the clerk of said board. Police officers who shall be selected to act as sergeants of police, and police officers who shall be selected to act as detective police officers, shall each receive a salary of one hundred and twenty-five dollars per month, payable monthly, at the end of each and every month. The police officer who shall be selected to act as clerk to the chief of police, and the police officer who shall be selected to act as property clerk, shall each receive a salary of one hundred and fifty dollars per month, payable monthly, at the end of each and every month. All other police officers shall each receive a salary of one hundred and two dollars per month, payable monthly, at the end of each and every month; provided, that the treasurer of such city, or city and county, is hereby authorized to deduct and retain from the salary of each member of said police force two dollars from every month's salary, to be paid into the fund of the police life and health insurance fund herein mentioned.

5. A surgeon of police, whose duty it shall be to attend to all cases of accident or sickness at the several police stations, to attend all officers who may

be taken sick or injured in the discharge of their duty, to examine all applicants for appointment on the police force, and to perform such other duties as the board of police commissioners may from time to time prescribe. He shall be appointed by the said board, and shall hold office during its pleasure, but he shall not be removed without just cause. He shall receive a salary of two hundred dollars per month, payable monthly, at the end of each and every month.

§ 141. There shall be a board of fire commissioners of such city, or city and county, consisting of five persons, possessing the same qualifications of eligibility as are herein prescribed for the members of the board of aldermen, who shall be appointed by the mayor, with the advice of the board of aldermen, and shall hold office for the term of four years from and after the time of their appointment, and no more than three of whom shall belong to the same national political party; provided, that the fire commissioners now acting as such in such city, or city and county, shall continue to hold their respective offices until the expiration of the term for which they may have been respectively elected or appointed.

§ 142. The said board of fire commissioners shall supervise and control said fire department, its officers, members, and employees, subject to the laws governing the same, and shall see that the officers, members, and employees thereof faithfully discharge their duties, and that the laws, orders, and regulations relating thereto are carried into operation and effect. They shall not, nor shall either of them, or the chief engineer, or assistant chief engineer, or assistant engineers, of said fire department, be interested in any contracts pertaining in any manner to said fire department, or the sale, furnishing of apparatus, or supplies for the same; and all contracts in violation of this section are declared void, and any of said persons violating the provisions of this section shall be deemed guilty of misdemeanor, and upon conviction, shall be punished accordingly. The municipal council of such city, or city and county, shall have power to contract and provide for all cisterns, hydrants, apparatus, horses, supplies, engine, hose and hook-and-ladder houses, and all alterations and repairs required; and said board of fire commissioners shall supervise all contracts awarded, and work done for the said fire department, and shall see that all contracts awarded and work done are faithfully performed. The said board of fire commissioners shall have power to prescribe the duties of the officers, members, and employees of said fire department, and to adopt rules and regulations for the management and discipline thereof; and a majority of them shall certify to the correctness of all claims and demands before the same shall be paid. And the municipal council is authorized and required to provide and furnish for the use of the board of fire commissioners a suitable room or rooms in some of the buildings of such city, or city and county, to serve as an office for their meetings and the transaction of business relating to said fire department, in which their clerk, janitor, and messenger shall be in attendance daily during office hours. The chief engineer, assistant chief engineer, and assistant engineer[s] of said department shall also make it their headquarters daily during office hours, when not otherwise engaged in official duties. And the said municipal council shall furnish the chief engineer, and also the assistant chief engineer and assistant

engineers hereinafter mentioned, with a horse and buggy, and shall provide for keeping the same.

§ 143. The officers of the fire department of such city, or city and county, shall be:

1. Five fire commissioners, to be appointed as aforesaid;
2. One chief engineer;
3. One assistant chief engineer;
4. Four assistant engineers;
5. One superintendent of steam fire-engines.

§ 144. The members and employees of said fire department shall be:

1. One assistant superintendent of steam fire-engines;
2. One clerk and storekeeper for the corporation yard;
3. One corporation yard drayman;
4. One night watchman of corporation yard;
5. Two hydrantmen;
6. One veterinary surgeon;
7. One foreman of each company;
8. One engineer for each steam fire-engine;
9. One substitute engineer and machinist;
10. One driver for each company;
11. One fireman for each steam engine company;
12. One carpenter;
13. One tillerman for each hook-and-ladder company;
14. One steward for each hose company;
15. One janitor and messenger;
16. One clerk.

§ 145. All paid members of said fire department, except the veterinary surgeon, foreman, assistant foreman, company clerks, hosemen, hook-and-ladder men, and stewards of volunteer companies shall give their undivided attention to their respective duties, but the foreman, assistant foreman, company clerks, hosemen, and hook-and-ladder men, and stewards of volunteer companies, shall perform such duties as may be prescribed from time to time by said board of fire commissioners and ordered to be executed by the chief engineer.

§ 146. The chief engineer, the assistant chief engineer, the superintendent of steam fire-engines, the assistant engineers, the clerk, and all members and employees of the fire department, shall be appointed by the fire commissioners, and retain their positions during good behavior; and it shall be the duty of such fire commissioners, on their first organization under this act, to appoint as members thereof the officers and members of any fire department which shall be in service in any such city, or city and county, at the time of its organization under this act. No officer, member, or employee of said fire department shall be removed for political reasons.

§ 147. The fire department of such city, or city or county, shall consist of such engine, hook-and-ladder and hose companies as shall be recommended by the board of fire commissioners, and determined by the municipal council necessary to afford protection against fire; provided, that as an auxiliary

thereto patent fire-extinguishers may also be purchased and employed, if, in the judgment of said board, deemed advisable; provided, that no hand engine shall be purchased for the use of said department, but such as shall be in possession of such city, or city and county, prior to its organization under this act, may be used in such localities and under such regulations as the board of fire commissioners may prescribe. The companies of said department shall be organized as follows: Each steam fire-engine company shall consist of one (1) foreman, one (1) engineer, one (1) driver, one (1) fireman, and eight (8) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hook-and-ladder company shall consist of one (1) foreman, one (1) driver, one (1) tillerman, and twelve (12) hook-and-ladder men; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hose company shall consist of one (1) foreman, one (1) driver, and one (1) steward, and six (6) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk.

§ 148. The chief engineer shall be the executive officer of said fire department, and it shall be his duty (and that of the assistant chief engineer and assistant engineers) to see that the laws, orders, rules, and regulations concerning the same are carried into effect, and also to attend to such duties as fire wardens as may be required, and to see that all laws, orders, and regulations established in such city, or city and county, to secure protection against fire, are enforced. It shall also be the duty of the chief engineer to enforce the rules and regulations made from time to time to secure discipline in said fire department, and he shall have power to suspend any subordinate officer, member, or employee for a violation of the same, and shall forthwith report in writing, with his reasons therefor, to the board of fire commissioners for their action. He shall diligently observe the condition of the apparatus and workings of said department, and shall report in writing, at least once in each week, to said board of fire commissioners, upon the same, and make such recommendations and suggestions respecting it, and for securing its greater efficiency, as he may deem proper; and in the absence or inability of the chief engineer to act, the assistant chief engineer shall assume the duties of said office of chief engineer.

§ 149. The person elected as clerk by said board of fire commissioners shall, before entering upon the discharge of his duties, execute a bond, with two or more sureties, in the penal sum of twelve thousand (\$12,000) dollars, for the faithful discharge of his duties, which bond shall be approved by said board of fire commissioners, and the mayor of such city, or city and county, and when so approved shall be filed in the office of the auditor. The amount of said bond may be increased from time to time, when directed by the board of fire commissioners, should it deem it necessary for the public good; said clerk shall attend daily, during office hours, at the office of the board of fire commissioners (which shall be the office of the chief engineer, assistant chief engineer, and assistant engineers): shall perform the duties of clerk to said board and chief engineer, and shall perform such other duties from time to time as said board may prescribe. The clerk and storekeeper for the corporation yard shall, before entering upon his duties, furnish a bond in the sum of ten thousand (\$10,000) dollars, to be approved in the same manner

as the bond provided for in this section, to be given by the clerk of said board of fire commissioners, and filed with the auditor.

§ 150. The mayor of such city, or city and county, upon the recommendation of the board of fire commissioners, with the approval of the municipal council, is authorized to sell at private or public sale from time to time any or all of the engines, hose-carriages, engine-houses, lots on which such houses stand, or parts of lots (or to exchange any of said lots, when in their judgment demanded by the public good), or other property which shall not be required for the use of the department, and to execute, acknowledge, and deliver good and sufficient deeds or bills of sale for the same, paying the proceeds of such sale into the county treasury, to the credit of the proper fund.

§ 151. The municipal council of such city, or city and county, is hereby authorized and required to appropriate, allow, and order paid annually out of the general fund of such city, or city and county, the salaries hereinafter specified and allowed, and salaries at similar rates to the several officers and men of any additional companies created as aforesaid, and the municipal council is required to appropriate, allow, and order paid, out of the general fund, a sum not to exceed eighty thousand (\$80,000) dollars annually for running expenses, horse feed, repairs to apparatus, and for the construction and erection of cisterns and hydrants, and for the erection and repair of buildings, and other expenses of the fire department. To appropriate a sum not to exceed thirty thousand (\$30,000) dollars for the purchase of horses and apparatus for the fire department.

§ 152. Whenever a member of the paid fire department of such city, or city and county, shall become disabled by reason of injuries received at any fire, so as to be unable to perform his duties, the municipal council, upon the recommendation of the board of fire commissioners, is hereby authorized and empowered to allow said disabled man a sum not exceeding fifty (\$50) dollars per month for not to exceed three (3) months, payable out of the general fund of such city, or city and county, in the same manner and form as other payments are made out of said fund.

§ 153. The municipal council shall provide, by ordinance, for the payment into a "Fireman's Charitable Fund" of such city, or city and county, of all moneys received for licenses for the storage, manufacture, or sale of gunpowder, blasting powder, guncotton, fireworks, nitroglycerin, dynamite, or any explosive oils or compounds, or as a municipal tax upon the same; also all fines collected in the police court, for violations of fire ordinances. Said fund shall be under the direction and control of and subject to such regulations as may be prescribed by the board of fire commissioners.

§ 154. The chief engineer shall have power to appoint one member of each company to act as assistant foreman; also, one member to act as clerk; said clerk to receive five (\$5) dollars per month extra pay.

§ 155. The fire commissioners shall organize said board immediately upon their appointment, and on the first Monday after the first day of January of each and every year thereafter, by selecting one of their number as president, and they shall meet at least once in each month publicly at their office to

transact the business of said fire department; and, in addition to the stated meetings, they shall meet twice in each month for the purpose of investigating charges against officers, members, and employees of said department for violating any of the rules and regulations thereof; and shall hold such intermediate sessions as they shall deem necessary to the proper administration of the fire department. No person shall be eligible to any position in said department who is not a citizen of the United States, or a resident of such city, or city and county, at least two years, nor under twenty-one (21) years of age at the time of his appointment.

§ 156. In all investigations for violation of the rules and regulations of the fire department, the president of the board of fire commissioners shall have power to issue subpoenas, and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be served by any police officer or by any peace-officer of such city, or city and county. Any person who refuses to attend or testify in obedience to such subpoenas shall be deemed guilty of contempt, and be punished by him as in cases of contempt in justices' court in civil cases.

§ 157. No officer, member, or employee of the fire department shall be dismissed unless for cause, nor until after a trial. The accused shall be furnished with a written copy of the charges against him at least five (5) days previous to the day of trial, and he shall have an opportunity to examine witnesses in his behalf, and all witnesses shall be examined under oath, and all trials shall be public.

§ 158. The municipal council of such city and county is hereby authorized and empowered to establish and maintain at the corporation yard a workshop for making repairs and improvements upon the apparatus of the fire department, and such workshop and such repairs and improvements to be under the supervision of the board of fire commissioners, and the municipal council shall allow and order paid, out of the proper fund, all the expenses of such workshops, repairs, and improvements.

§ 159. No member of said board of fire commissioners shall, during his term of office, be a member of any party convention the purpose of which is to nominate candidates for political office, nor shall the officers, members, or employees of said fire department take any part whatever in any partizan convention, held for the purposes of a political party; nor shall any member of the said board of fire commissioners, directly or indirectly, attempt to control or influence the action of any member of said fire department, or any employee thereof, in any primary or general election. No member of the fire department shall levy, collect, or pay any amount of money as an assessment or contribution for political purposes. Any violation of the foregoing provisions of this section shall be deemed a misdemeanor.

§ 160. The salaries of the officers of the fire department shall be paid in monthly instalments, and as follows:

1. The salary of the fire commissioners shall be one thousand two hundred dollars per annum;
2. The salary of the chief engineer shall be four thousand dollars per annum;

3. The salary of the assistant chief engineer shall be two thousand four hundred dollars per annum;

4. The salaries of the assistant engineers shall each be one thousand eight hundred dollars per annum;

5. The salary of the superintendent of steam fire-engines shall be two thousand four hundred dollars per annum.

§ 161. The salaries of the members and employees of the fire department shall be paid in monthly instalments, and as follows:

1. The salary of assistant superintendent of steam fire-engines shall be one thousand six hundred and eighty dollars per annum;

2. The salary of the clerk and storekeeper for the corporation yard shall be one thousand five hundred dollars per annum;

3. The salary of the corporation yard drayman shall be one thousand and eighty dollars per annum;

4. The salary of the night watchman for the corporation yard shall be nine hundred dollars per annum;

5. The salary of the two hydrantmen shall be one thousand and eighty dollars per annum each;

6. The salary of the veterinary surgeon shall be one thousand two hundred dollars per annum;

7. The salary of the foreman of each company shall be five hundred and forty dollars per annum;

8. The salary of the engineer for each steam fire-engine company shall be one thousand six hundred and eighty dollars per annum;

9. The salary of the substitute engineer and machinist shall be one thousand six hundred and eighty dollars per annum;

10. The salary of the driver for each company shall be one thousand and eighty dollars per annum;

11. The salary of the fireman for each steam fire company shall be one thousand and eighty dollars per annum;

12. The salary of the carpenter for said department shall be one thousand two hundred dollars per annum;

13. The salary of the tillerman for each hook-and-ladder company shall be one thousand and eighty dollars per annum;

14. The salary of the steward for each hose company shall be nine hundred and sixty dollars per annum;

15. The salary of each hoseman and each hook-and-ladder man shall be four hundred and eighty dollars per annum;

16. The salary of the janitor and messenger shall be one thousand two hundred dollars per annum;

17. The salary of the clerk of the board of fire commissioners shall be one thousand eight hundred dollars per annum.

§ 162. There shall be maintained and provided for by the municipal council in such city, or city and county, a fire-alarm and police telegraph for municipal use, and the superintendent thereof shall be appointed by the board of fire commissioners, to serve during its pleasure, except that he shall not be removed for political causes, reasons, or purposes. Said superintendent is authorized to appoint the following officers and employees: One chief

operator, three operators, one repairer, two assistant repairers, and one batteryman. It shall be the duty of such board, on their first organization under this act, to appoint as officers and employees thereof the officers and employees of any fire-alarm and police telegraph which shall be in service in such city, or city and county, at the time of its organization under this act.

§ 163. The salaries of the officers of said fire-alarm and police telegraph shall be paid in monthly instalments, and as follows:

1. The salary of the superintendent shall be two thousand four hundred dollars per annum;

2. The salary of the chief operator shall be one thousand eight hundred dollars per annum;

3. The salary of each of the three operators herein provided for shall be one thousand five hundred dollars per annum;

4. The salary of the repairer shall be one thousand two hundred dollars per annum;

5. The salary of each of the two assistant repairers herein provided for shall be one thousand and eighty dollars per annum;

6. The salary of the batteryman shall be nine hundred dollars per annum.

§ 164. The municipal council shall appropriate such sum as may be necessary, not exceeding fifteen thousand dollars per annum, for the maintenance, repair, and extension of said telegraph, and to defray the cost of instruments and machinery therefor, and for such horses and vehicles as may be necessary for the use of said superintendent.

§ 165. There shall be a board of health for such city, or city and county, which board shall consist of the mayor of the city and county, and five physicians in good standing, residing in such city, or city and county, who shall be appointed by the governor, and who shall hold office for the term of four years, and until their successors are appointed and qualified; and in case any vacancy shall at any time occur in said board by removal, or resignation, or otherwise, the same shall be filled by appointment by the governor.

§ 166. The mayor of such city, or city and county, shall be ex officio president of the board of health, and in his absence, at any meeting, the board may elect a chairman, who shall, for the time, be clothed with all the power of the president. Said board shall hold a regular meeting at least once in each month, and at other times, when called thereto by the president, or by a majority of the board.

§ 167. Said board of health is hereby invested with general jurisdiction over all matters appertaining to the sanitary condition of such city, or city and county, and over all quarantine regulations and the enforcement thereof, and hospitals and almshouses, and all municipal institutions created and maintained for charitable purposes and not herein enumerated, within the corporate limits of such city, or city and county, and adopt such orders and regulations as may be necessary to the complete exercise of the powers hereinbefore enumerated, and may appoint or discharge such attendants and employees as may seem best to promote the public welfare.

§ 168. The members of said board of health shall receive no salary.

§ 169. Said board of health shall have power to appoint the following

officers and employees, who shall receive the salaries hereinafter provided, payable in monthly instalments at the end of each month, viz.:

1. One health officer, who shall be the executive officer of said board, at a salary of two thousand four hundred dollars per annum;

2. One quarantine officer, at a salary of one thousand eight hundred dollars per annum;

3. One secretary, at a salary of two thousand four hundred dollars per annum;

4. Six health inspectors and one market inspector, at a salary of one thousand two hundred dollars per annum each; one messenger at nine hundred dollars per annum;

5. One superintendent of the city, or city and county, hospital, who shall be a physician and graduate of some medical college in good standing, at a salary of two thousand four hundred dollars per annum;

6. One resident hospital physician, at a salary of one thousand five hundred dollars per annum;

7. One hospital steward, at a salary of one thousand two hundred dollars per annum;

8. One hospital matron, at a salary of nine hundred dollars per annum.

9. One hospital apothecary, at a salary of one thousand two hundred dollars per annum;

10. One hospital engineer, at a salary of nine hundred dollars per annum;

11. Two physicians and two surgeons, to be selected from the faculty of the medical department of the University of California, and two physicians and two surgeons, to be selected from the faculty of the Pacific Medical College, at such salary as the board of health may designate, not to exceed one thousand two hundred dollars each per annum, as visiting physicians and surgeons to the city, or city and county, hospital;

12. One almshouse superintendent, at a salary of two thousand four hundred dollars per annum;

13. One resident almshouse physician, at a salary of one thousand five hundred dollars per annum;

14. One almshouse matron, at a salary of seven hundred and twenty dollars per annum;

15. One city physician, at a salary not to exceed one thousand eight hundred dollars per annum;

16. One assistant city physician for the industrial school and house of correction, at a salary of one thousand two hundred dollars per annum;

17. One first cook, at a salary of sixty dollars per month;

18. One second cook, at a salary of thirty-five dollars per month;

19. One third cook, at a salary of thirty dollars per month;

20. One baker, at a salary of seventy-five dollars per month;

21. One clerk, at a salary of forty dollars per month;

22. One interpreter, at a salary of forty dollars per month;

23. One ambulance driver, at a salary of forty dollars per month;

24. Sixteen nurses, at a salary of thirty-five dollars each [per month].

§ 170. The appointing power of all and every of the aforesaid officers and employees is vested solely in said board of health, and said board shall have power to prescribe the duties of every and all of said officers and employees, and

to remove the same at pleasure; and said board of health is hereby empowered to employ such additional employees as may be necessary to carry out the purposes of this act, at such compensations as said board of health may fix.

§ 171. The salaries of the officers and employees of said board of health, and all other expenses legally incurred by said board under the provisions of this chapter, shall be payable out of the general fund of the treasury of such city, or city and county; and the auditor of such city, or city and county, is hereby directed to audit all such demands, and the treasurer of such city, or city and county, is hereby directed to pay the same out of said general fund. The said board of health shall, annually, upon the third Monday of April of each year, transmit, in writing, to the municipal council of such city, or city and county, an estimate of the amount of money necessary to defray all of the expenditures of said board of health for the next fiscal year; and the board of health shall not expend, in any one fiscal year, an amount exceeding the amount of such estimate so transmitted by said board of health for such fiscal year, allowed upon such estimate by the municipal council, except in case of an epidemic of any contagious disease, when such board of health is hereby authorized to increase such expense as may be deemed necessary for the public safety; and all such expenses shall be payable out of the general fund of such city, or city and county, at the same time and in the same manner provided for other expenses of said board. Nothing in this act shall be construed to authorize said board of health to contract for or purchase supplies for any of the charitable institutions placed under its control by this chapter. All contracts for any of the work authorized by this chapter to be caused to be performed by said board of health shall be awarded by said board to the lowest responsible bidder, after notice, for not less than five days, in two daily newspapers published in such city, or city and county, under such regulations and requirements as said board of health may adopt.

§ 172. It shall not be lawful for any superintendent, or other principal officer in charge of any almshouse in such city, or city and county, to have or receive any perquisites, or to derive any income or revenue therefrom, either directly or indirectly, other than the salary allowed to him by the board of health; nor shall it be allowable for any subordinate officer or employee to have or receive any perquisites, either directly or indirectly; and it shall be the duty of the board of health to remove any such superintendent, or other principal officer, or any subordinate officer or employee who violates any provision of this section. All fees authorized by any of the provisions of this chapter, to be collected by any officer or employee of the board of health, shall be immediately paid by such officer or employee to the secretary of said board of health, who shall, upon the first Monday of each month, pay the same into the treasury of such city, or city and county, to be credited to the proper fund.

§ 173. Shipmasters bringing vessels into the harbor of any such city, or city and county, and all masters, owners, or consignees having vessels in such harbor, which have on board any cases of Asiatic cholera, smallpox, yellow, typhus, [or] ship fever, or any other contagious disease, must report the same, in writing, to the quarantine officer before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they, or either of them, become aware of the existence of either of these diseases on board of their vessel.

§ 174. No captain or other officer in command of any vessel sailing under a register, arriving at the port of any such city, or city and county, nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any freight, passengers, or other persons from such vessels, until he has reported to the quarantine officer, presented his bill of health, and received a permit from that officer to land freight, passengers, and other persons.

§ 175. Every pilot who conducts into the port of any such city, or city and county, any vessel subject to quarantine, or examination by the quarantine officer, must:

1. Bring the vessel no nearer such city, or city and county, than is allowed by law;

2. Prevent any person from leaving such vessel, and any communication being made with the vessel under his charge, until the quarantine officer has boarded her and given the necessary orders and directions;

3. Be vigilant in preventing any violation of the quarantine laws, and report, without delay, all such violations that come to his knowledge to the quarantine officer;

4. Present the master of the vessel with a printed copy of the quarantine laws, unless he has one;

5. If the vessel is subject to quarantine, by reason of infection, place at the masthead a small yellow flag.

§ 176. Every master of a vessel subject to quarantine, or visitation by the quarantine officer, arriving in the port of any such city, or city and county, who refuses or neglects either:

1. To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,

2. To submit his vessel, cargo, and passengers to the quarantine officers, their inspection, examination, and direction, and furnish all necessary information to enable that officer to determine to what quarantine or other regulations they might respectively be subject; or,

3. To report all cases of disease and of death occurring on his vessel, and to comply with all the sanitary regulations of such port or harbor;

Is liable in the sum of five hundred dollars for every such neglect or refusal.

§ 177. All vessels arriving off the port of any such city, or city and county, from ports which have been legally declared infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have usually foul or offensive holds, are subject to quarantine, and must be by the master, owner, pilot, or consignee reported to the quarantine officer without delay. No such vessel must pass within the bounds prohibited them by the board of health, until the quarantine officer has boarded her and given the order required by law.

§ 178. The quarantine officer must board every vessel subject to quarantine or visitation by him, immediately on her arrival, make such examinations and inspection of vessels, books, papers, or cargo, or of persons on board, under oath,

as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine.

§ 179. No captain, or other officer, in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden having passengers on board, nor any consignee, owner, agent, or other person having charge of such vessel or vessels, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel until he has presented his bill of health to the quarantine officer and received a permit from that officer to land such passengers, except in such cases as the quarantine officer deems it safe to give the permit before seeing the bill of health.

§ 180. The following fees shall be collected by the quarantine officer for giving a permit to land freight or passengers, or both: From any sailing vessel of less than five hundred tons burden, from any port out of this state, two dollars and fifty cents; five hundred and under one thousand tons burden, five dollars; each additional one thousand tons burden, or fraction thereof, an additional two dollars and fifty cents; for steam vessels, propelled in whole or in part by steam, of one thousand tons burden or less, five dollars, and two dollars and fifty cents additional for each additional one thousand tons burden or fraction thereof. But vessels not propelled in whole or in part by steam, sailing to and from any port or ports of the Pacific states of the United States or territories, and whaling vessels entering the harbor of any such city and county, are excepted from the provisions of this section.

§ 181. The board of health may enforce compulsory vaccination on passengers or [on] variola-infected ships, or coming from ports infected with the same.

§ 182. The board of health shall establish quarantine grounds at such points and places as in its judgment may best conduce to public safety; may provide suitable hospitals whenever the same are required for the public safety, and furnish and supply the same with nurses and attaches, and remove thereto all persons afflicted with cholera, smallpox, yellow, typhus [or] ship fever, or other contagious diseases; provided, said quarantine grounds and hospitals shall not be established within one mile of the mainland on the north side of the bay of San Francisco.

§ 183. The board of health must cause to be kept a record of all births, deaths, and interments occurring in such city, or city and county, coming under the provisions of this chapter. Such records, when filed, must be deposited in the office of the city, or city and county, recorder, and produced when required for public inspection.

§ 184. Physicians and midwives must, on or before the fourth day of each month, make a return to the health officer of all births, deaths, and the number of still-born children occurring in their practice during the preceding month. In the absence of such attendants, the parents must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted by, and upon blanks furnished by, the board of health.

§ 185. No person shall deposit in any cemetery, or inter in any such city, or city and county, any human body, without first having obtained and filed with the health officer a certificate, signed by a physician or midwife, or coroner,

setting forth as near as possible the name, age, color, sex, place of birth, occupation, date, locality, and the cause of death of deceased, and obtain from such health officer a permit. The physicians, when death occurs in their practice, must give the certificate herein mentioned. It shall be the duty of the said board of health to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that time it shall cause the body to be buried, or to be placed in a vault or niche, constituted of brick, stone, or iron, and hermetically sealed. It shall also be the duty of said boards to require all persons having in charge the digging of graves and the burial of the dead, to see that the body of no human being who has reached ten years of age shall be interred in a grave less than six feet deep, or if under the age of ten years, the grave to be not less than five feet deep. The board of health shall have entire charge of all cemeteries belonging to such city, or city and county, and may employ a superintendent thereof, at a salary not to exceed seventy-five dollars per month, the same to be paid out of the general fund as the salaries of the other employees are paid.

§ 186. Superintendents of all cemeteries in any such city, or city and county, must return to the health officer, on each Monday, the names of all persons interred or deposited within their respective cemeteries during the preceding week, and no superintendent of a cemetery, or any other person, can remove, or cause to be removed, or cause to be disinterred, any human body or remains that have been deposited in a cemetery, without a permit therefor from the health officer, or by order of the coroner.

§ 187. It shall be unlawful to disinter or exhume from a grave, vault, or other burial-place within the limits of such city, or city and county, the body or remains of any deceased person, unless a permit for so doing shall have first been obtained from the health officer of such city, or city and county. Nor shall any body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be transported in or through the streets or highways of any such city, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain from the health officer a permit, in writing, therefor, as aforesaid. But when an applicant for a permit to disinter a body shall desire to remove said body beyond the limits of such city, or city and county, and shall so state on making application, the permit, if the same be issued, shall include the right to disinter and remove, and said permit shall accompany the remains.

§ 188. Permits to disinter or exhume the bodies or remains of deceased persons and to transport the same, or to exhume, or to transport, as in the last [preceding] section provided, may be granted, in the discretion of the health officer, and under such restrictions and conditions only as he, in his judgment, may affix, so as in the best possible manner to protect the public health. The health officer shall prepare a book of blank permits in proper form, and consecutively numbered, containing stubs, on which, as well as in the permit, shall be entered a record of the transaction, giving the name, age, sex, nativity, date of death, destination of remains sought to be removed, and upon granting each permit shall be required to be paid to him the sum of ten dollars therefor, for the use and benefit of the general fund of such city, or city and county.

§ 189. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed, from a grave, vault, or other receptacle or burial-place, the remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

§ 190. Any person or persons who shall transport, or cause to be transported, on or through the streets or highways of any such city, or city and county, the body or remains of a deceased person which has been disinterred or exhumed without a permit therefor, in accordance with this chapter, shall be guilty of a misdemeanor, and be punished as provided in the preceding section.

§ 191. Nothing in this chapter contained shall be taken to apply to the removal of the remains of the deceased person from one place of interment to another place of interment, or cemetery, within this state.

§ 192. No person, master, captain, or conductor in charge of any boat, vessel, or railroad car, or public or private conveyance, shall receive for transportation, or shall transport, the body of any person who has died within the limits of such city, or city and county, without said body is accompanied by a permit for such transportation from the health officer, which permit shall accompany the body to its destination; and no person, master, captain, or conductor, as aforesaid, shall bring into or transport through any such city, or city and county, the dead body or remains of any person unless it be accompanied with a certificate from some proper authority of the place from whence it came, stating the name, age, sex, and cause of death, which certificate shall be filed at the health office; provided, that in no case shall the body of any person who died of contagious disease be brought to such city, or city and county, within one year after the day of death.

§ 193. Whenever a nuisance shall exist on the property of any non-resident, or any property the owner or owners of which cannot be found by either health inspector, after diligent search, or on the property of any owner or owners upon whom due notice may have been served, and who shall for three days refuse or neglect to abate the same, or any property belonging to such city, or city and county, it shall be the duty of the board of health to cause the said nuisance to be at once removed or abated, and to draw upon the general fund in such sums as may be required for such removal or abatement, not to exceed two hundred dollars; provided, that whenever a larger expenditure is found necessary to be made in the removal or suppression of any nuisance, the municipal council of such city, or city and county, shall, upon the written application of the board of health, by ordinance, appropriate, allow, and order paid, out of the general fund, such sum or sums as may be necessary for that purpose; provided further, that in all cases where such expenditure will exceed five hundred dollars, no appropriation shall be made for that purpose unless the city, or city and county, attorney shall first give his opinion in writing that such expenditure would be a legal charge against the property affected thereby. And the auditor shall audit and the treasurer shall pay all appropriations of money made in pursuance of this section, in the same manner as is now provided by law for auditing and paying demands upon the treasury.

§ 194. The health officer and the quarantine officer must each keep a book open to public inspection, in which must be entered daily all fees collected by them, and they must pay all fees collected to such city, or city and county, treasurer, daily, to the credit of the general fund.

§ 195. The health officer must execute an official bond, with two sureties, to be approved by the board of health, in the sum of ten thousand dollars; and the quarantine officer must execute a like official bond, with two sureties, in the sum of ten thousand dollars; which bonds shall be filed with the auditor of such city, or city and county.

§ 196. Any member of the board of health, the health officer, and the quarantine officer, and the secretary of the board of health, is [are] hereby authorized to administer oaths on business connected with the health department.

§ 197. Whenever any cause of action arises under any of the provisions of this chapter relating to the health department, suit may be maintained thereon in the name of the health or quarantine officer, as the case may be, in any superior court or justices' court of this state.

§ 198. Every physician in any such city, or city and county, shall report to the health officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, diphtheria, scarlatina, or other contagious diseases, immediately thereafter, and report to the same officer every case of death from such disease.

§ 199. Every householder in any such city, or city and county, shall forthwith report, in writing, to the health officer the name of every person boarding, or an inmate of his or her house, whom he or she shall have reason to believe sick of cholera, or smallpox, and any death occurring at his or her house from such disease.

§ 200. There shall be a board of park commissioners of such city, or city and county, consisting of three persons, to be appointed by the governor of this state, who shall hold their office for four years, and who shall receive no compensation for their services. In case of a vacancy, the same shall be filled by the remaining members of the board for the residue of the term then vacant; and all vacancies occasioned by expiration of terms of office, or neglect, or incapacity, shall be filled by the governor aforesaid. Each of said commissioners shall be a freeholder and resident of such city, or city and county. Said board shall have full and exclusive control and management of all the parks of such city, or city and county, which at the time of the organization of such city, or city and county, under this act, were treated and improved as public parks, with the avenues and great highways connected therewith. Two of said commissioners shall constitute a quorum to do business, but no money shall be expended or contract entered into authorizing the expenditure of money without the approval of the mayor and a majority of said board of park commissioners.

§ 201. Said board shall have power to govern, manage, and direct said parks and avenues leading thereto as have heretofore been operated or managed in connection therewith; to lay out, regulate, and improve such parks and avenues; to pass ordinances for the regulation and government of the same; to appoint one general superintendent, who shall perform the duties of overseer and managing gardener, who shall receive a salary of two thousand four hundred dollars per annum. The city, or city and county, surveyor shall be ex officio engineer

of the works, and shall perform such engineering work as the commissioners may require of him. Prisoners over the age of twenty-one years, sentenced to hard labor in any of the jails, prisons, houses of correction, workhouses, or other penal establishments of such city, or city and county, may be put to work upon the parks. The commissioners may employ such other laborers as shall be necessary, within the amount allowed by law to be expended on said parks, at wages not to exceed the current wages paid in such city, or city and county, for labor. They shall in no year incur any debt or deficit, nor expend any money beyond the amount realized by the tax herein provided for. All persons violating any of the ordinances of the commissioners regulating the parks shall be deemed guilty of misdemeanor, and punished accordingly.

§ 202. The municipal council shall have the power to levy and collect, in the mode prescribed by law for the levy and collection of taxes, each year, upon all property in such city, or city and county, the sum of one and one half cents upon each one hundred dollars valuation of taxable property therein, for the purpose of preserving and improving the parks and avenues under control and management of said commissioners. Said money shall be paid into the treasury, and paid out for said purpose; all claims to be first allowed by said commissioners and audited by the auditor. The jurisdiction of the park commissioners shall not extend to unimproved parks, nor squares and places not hitherto treated as parks, unless extended thereto by an ordinance of the municipal council. The commissioners may lease, for terms not to exceed three years, any portion of said grounds not immediately required for improvement, the proceeds to go to the improvement of the parks and avenues.

§ 203. The park commissioners shall make semiannual reports to the mayor and municipal council of all their proceedings, and a detailed statement of all the receipts and expenditures.

§ 204. The mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations failing to fulfil their agreements. And it is the duty of any and every city, or city and county, officer, when it shall come to his knowledge that any contract with such city, or city and county, relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the mayor. A failure to do so shall be a sufficient cause for the removal of any officer of any department. The mayor shall give a certificate, on demand, to any officer giving such information that he has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty. The city, or city and county, attorney shall prosecute all suits so ordered by the mayor.

ARTICLE V.—JUDICIAL DEPARTMENT.

§ 213. There shall be in and for such city, or city and county, one justices' court, composed of six justices of the peace, which shall have the powers and jurisdiction prescribed and conferred by law upon justices of the peace and justices' courts, in such city, or city and county. All actions, suits, and proceedings whereof justices of the peace and justices' courts in such city, or city and county, have jurisdiction, shall be commenced, entitled and prosecuted in said court. Such court shall be always open, non-judicial days excepted, and causes

therein may be tried before the presiding justice, before any one of the justices before whom the original process may be made returnable, or to whom the cause may be assigned or transferred for trial.

§ 214. The board of aldermen shall appoint one of the justices of the peace to be presiding justice, who, as such, shall hold office until his successor shall in the same manner be appointed; and any one of the other justices may attend, preside and act as presiding justice during the temporary absence or disability of the justice so appointed. The board of aldermen, within ten days after its organization as such board, shall appoint a justices' clerk, who shall hold office during the pleasure of the appointing power. The clerk shall take the constitutional oath of office, and give bond, with at least two sufficient sureties, to be approved in the same manner as the official bond of other officers of such city, or city and county, in the sum of not less than fifteen thousand dollars, payable to the city, or city and county, conditioned for the faithful discharge of the duties of his office, and well and truly to account for and pay into the treasury of such city, or city and county, as required by law, all moneys by him collected or received, and by law designated for that use. A new or additional bond may be required by the municipal council whenever it deems it necessary; and on failure to furnish such new or additional bond within five days after it shall be required, the office shall become vacant. The justices' clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit or proceeding in all courts in such city, or city and county, and to appoint two deputy clerks, for whose acts he shall be responsible on his official bond; the said deputy clerks to hold office during the pleasure of said clerk. Said deputy clerks shall have the same power as the said clerk, except that of appointment.

§ 215. The municipal council of such city, or city and county, shall provide, in some convenient locality in the city, or city and county, a suitable office, or suite of offices, for said presiding justice, justices' clerk, deputy clerk and deputy sheriff, and offices suitable for holding sessions of said court, and separate from one another, for each of said justices of the peace, together with attendants, furniture, fuel, lights and stationery, sufficient for the transaction of business; and if they are not provided, the court may direct the sheriff to provide the same, and the expenses incurred, certified by the justices to be correct, shall be a charge against the city, or city and county, treasury and paid out of the general fund thereof. The said justices, justices' clerk and deputy clerk, shall be in attendance at their respective offices for the dispatch of official business daily, from the hour of nine o'clock a. m. until five o'clock p. m.

§ 216. All legal process of every kind in actions, suits or proceedings in said justices' court, for the issue of service of which any fee is or may be allowed by law, shall be issued by the said justices' clerk, upon the order of the presiding justice, or upon the order of one of the justices of the peace, acting as presiding justice, as in this chapter provided; and the fees for issuance and service of all such process, and all other fees which are allowed by law for any official services of justices, justices' clerk, or sheriff, shall be exacted and paid in advance into the hands of said clerk, and be by him daily, weekly or monthly, as the municipal council may require, and before his salary shall be allowed, accounted for in detail, under oath, and paid into the treasury of such city, or city and county, as part of the special fee fund thereof; provided, that such payment in advance

shall not be exacted from parties who may prove, to the satisfaction of the presiding justice, that they have good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees; and no judgment shall be rendered in any action before said justices' court, or any of said justices, until the fees allowed therefor, and all fees for previous services therein, which are destined to be paid into the treasury, shall have been paid, except in cases of poor persons, as hereinbefore provided.

§ 217. The sheriff of such city and county shall be ex officio an officer of said court, and it shall be his duty to serve or execute, or cause to be served and executed, each and every process, writ, or order that may be issued by said justices' court; provided, that a summons issued from said court may be served and returned as provided in section eight hundred and forty-nine of the Code of Civil Procedure; and that subpoenas may be issued by the justices' clerk, and served as provided in sections nineteen hundred and eighty-seven and nineteen hundred and eighty-eight of the Code of Civil Procedure. The said sheriff may appoint, in addition to the other deputies allowed by law, three deputies, whose duty it shall be to assist said sheriff in serving and executing the process, writs, and orders of the said justices' court. Said deputies shall receive a salary of not to exceed one hundred and twenty-five dollars per month each, payable monthly, out of the city and county treasury, and out of the special fee fund, after being first allowed and audited as other demands are by law required to be audited and allowed. One of said deputies shall remain in attendance during the sessions of said court, and at such other times as the said court or the presiding justice thereof may order and direct, for the purpose of attending to such duties as may be imposed on said sheriff or said deputies, as herein provided or required by law. The said sheriff shall be liable on his official bond for the faithful performance of all duties required of him or any of his said deputies.

§ 218. All actions, suits, and proceedings in such city, or city and county, whereof justices of the peace or justices' courts have jurisdiction, except those cases of concurrent jurisdiction that may be commenced in some other court, shall be entitled: "In the justices' court of the city of — (or the city and county of —)," (inserting the name of the city, or city and county), and commenced and prosecuted in said justices' court, which shall be always open. The original process shall be returnable, and the parties summoned required to appear, before the presiding justice, or before one of the other justices of the peace, to be designated by the presiding justice at his office; but all complaints, answers, and other pleadings and papers required to be filed, shall be filed and a record of all such actions, suits, and proceedings made and kept in the clerk's office aforesaid; and the presiding justice, and each of the other justices, shall have power, jurisdiction, and authority to hear, try, and determine any action, suit or proceeding so commenced, and which shall have been made returnable before him, or may be assigned or transferred to him, or any motion, application, or issue therein (subject to the constitutional right of trial by jury), and to make any necessary and proper orders therein.

§ 219. In case of sickness, or disability, or absence of a justice of the peace (on the return of a summons, or at the time appointed for trial) to whom a cause has been assigned, the presiding justice shall reassign the cause to some other justice, who shall proceed with the trial and disposition of said cause in the

same manner as if originally assigned to him; and if, at any time before the trial of a cause or matter returnable or pending before any of said justices either party shall object to having the cause or matter tried before said justice on the ground that such justice is a material witness for either party, or on the ground of the interest, prejudice, or bias of such justice, and such objection be made to appear in the manner prescribed by section eight hundred and thirty-three of the Code of Civil Procedure, the said justice shall suspend proceedings, and the presiding justice, on motion and production before him of the affidavit and proofs, shall order the transfer of the cause or matter for trial before some other justice, to be designated by him. The presiding justice may, in like manner, assign or transfer any contested motion, application, or issue in law, arising in any cause, returnable or pending before him or any other justice, to some other justice, and the said justice to whom any cause, matter, motion, application, or issue shall be so as aforesaid assigned or transferred, shall have power, jurisdiction, and authority to hear, try, and determine the same accordingly.

§ 220. Cases which, by the provisions of law, are required to be certified to the superior court, by reason of involving the question of title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the presiding justice and justices' clerk; and for that purpose, if such question shall arise on the trial while the case is pending before one of the other justices, such justice shall certify the same to the presiding justice. All abstracts and transcripts of judgments and proceedings in said court, or in any of the dockets or registers of or deposited in said court, shall be given and certified from any of such dockets or registers and signed by the presiding justice and clerk, and shall have the same force and effect as abstracts and transcripts of justices of the peace in other cases. Appeals from judgments rendered in said court shall be taken and perfected in the manner prescribed by law, and the notice of appeal and all papers required to be filed to perfect it shall be filed with the justices' clerk. Statements on appeal shall be settled by the justice who tried the cause. Sureties on appeal, or on any bond or undertaking given in any cause or proceeding in said court, when required to justify, may justify before any one of the justices.

§ 221. The jurisdiction of the justices' court of such city, or city and county, extends to the limits of the city, or city and county, and its process may be served in any part thereof.

§ 222. The presiding justice, whenever in his judgment the prompt dispatch of business shall demand it, may require the aid of one of the justices of the peace in the discharge either of his own duties or those of the justices' clerk (the collection of fees, accounting for, and paying the same into the treasury excepted), and each of the justices, when so required, shall, for the purpose, have the same power and authority as the presiding justice or clerk in whose aid he shall act; and any one of the justices, when required as aforesaid, may act as a justices' clerk pro tempore during the temporary absence or disability of such clerk, with the same powers, duties, and responsibilities.

§ 223. In a suitable book, strongly bound, the justices' clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said justices' court, which book shall be a public record, and be known

as the "Justices' Docket," in which docket the clerk shall make the same entries as are provided for in section nine hundred and eleven of the Code of Civil Procedure, and which said docket and entries therein shall have the same force and effect as is provided by law in reference to dockets of justices of the peace. To enable the clerk to make up such docket, each of the justices shall keep minutes of his proceedings in every cause returnable before, or assigned or transferred to, him for trial or hearing; and upon judgment, or other disposition of a cause, such justice shall immediately certify and return the said minutes, together with all pleadings and papers in said cause, to the clerk's office, who shall immediately thereupon file the same, and make the proper entries under the title of the action in the docket aforesaid.

§ 224. The justices' court and the justices of the peace of every such city and county shall be governed in their proceedings by the provisions of law regulating proceedings before justices of the peace, so far as such provisions are not altered or modified in this chapter, and the same are or can be made applicable in the several cases arising before them. The justices' court of such city, or city and county, shall have power to make rules, not inconsistent with the constitution and laws, for the government of such justices' court and the officers thereof; but such rules shall not be in force until thirty days after their publication; and no rule shall be made imposing any tax or charge on any legal proceeding, or giving any allowance to any justice or officer for services.

§ 225. All actions and proceedings pending and undetermined before the justices' court of such city, or city and county, if any, at the time of its organization under this act, shall be proceeded in, heard, and determined before the court herein provided for, and execution shall be issued thereon, and other proceedings had therein, whether before or after judgment, whether on appeal or otherwise; and the court provided for under this act shall be deemed to be a continuation of the same court before existing, and not a new court.

§ 226. It shall not be lawful for any justice of the peace, the justices' clerk, or the sheriff, or any of his deputies, of such city, or city and county, to appear or advocate, or in any manner act as attorney, counsel, or agent for any party or person in any cause, or in relation to any demand, account, or claim, pending, or to be sued or prosecuted before said justices, or any of them, or which may be within their jurisdiction. A violation of the provisions of this section shall be deemed a misdemeanor in office.

§ 227. No person other than an attorney at law, duly admitted and licensed to practice in courts of record, shall be permitted to appear as attorney or agent for any party in any cause or proceeding before said justices, or any of them, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before one of said justices, or before some other officer authorized by law to take acknowledgment of deeds; which power of attorney, or a true copy thereof, duly certified by one of the justices aforesaid (who, on inspection of the original, shall attest to its genuineness), shall be filed among the papers in such cause or proceeding.

§ 228. If, at the time of the organization of any such city, or city and

county, under this act, there shall not be the complement of justices of the peace provided for in this chapter, the municipal council of such city, or city and county, shall appoint a suitable person or persons to fill such complement and the person or persons so appointed shall hold office from his or their appointment, and until his or their successor or successors is or are elected or appointed and qualified.

§ 229. The judicial power of such city, or city and county, shall be vested in a "police court," to be held therein by the police judges. The police court shall not be a court of record. Said court shall have a seal. The judges of said court may hold as many sessions of said court at the same time as there are judges thereof. There shall be two departments of said court, denominated, respectively, department one and department two. The court may sit in departments, and shall be always open for the transaction of business. There shall be, as far as practicable, an equal distribution of cases between the said departments, which cases shall be alternately set down for trial to each department in the order in which the warrants are issued or proceedings brought before the court. Said judges shall, as soon as may be after the commencement of the terms of their office, classify themselves by lot for assignment to said departments, and shall be thereby assigned accordingly.

§ 230. All the power and jurisdiction of said court shall be enjoyed and may be exercised in bank, or in either department thereof. All the powers of said judges may be exercised by either of them.

§ 231. The police court of such city, or city and county, shall have jurisdiction:

1. Of an action or proceeding for the violation of any ordinance of such city, or city and county;

2. Of proceedings respecting vagrants and disorderly persons.

§ 232. The police court shall have jurisdiction of the following public offenses committed in such city, or city and county:

1. Petit larceny; receiving stolen property, when the amount involved does not exceed fifty dollars;

2. Assault and battery, not charged to have been committed upon a public officer in the discharge of his duties or with intent to kill;

3. Breaches of the peace, riots, affrays, committing wilful injury to property, and of all misdemeanors punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment;

4. Said court or judges shall have jurisdiction of proceedings for security to keep the peace: and also, throughout such city and county, the same powers and jurisdiction, in other criminal actions, cases, prosecutions, and proceedings as are now or hereafter may be conferred by law upon police or justices' courts.

§ 233. The judges of said court shall have power to hear cases for examinations, and may commit and hold the offender to bail for trial in the superior court, and may try, condemn, or acquit, and carry their judgment into execution, as the case may require according to law, and shall have power

to issue warrants of arrest, subpœnas, and all other process necessary to the full and proper exercise of their power and jurisdiction.

§ 234. Said court or judges shall also have power to commit to the home for the care of the inebriate, when any such institute may be established, any person who may be convicted before them of habitual intemperance, for a term not exceeding six months, or until sooner released by order of the police judges, or by the board of managers of such institution by a two-thirds vote of all the members of said board.

§ 235. The said court or judges shall have the power to commit all offenders duly convicted, under eighteen years of age, to the industrial school of said city and county, in all cases where such commitment shall by said court or judge be deemed to be more suitable than the punishment otherwise provided by law, not to exceed six months. If, upon any trial, it shall appear that the person on trial is under fourteen years of age, and has done an act which if done by a person of full age would warrant a conviction of the crime of misdemeanor charged, then and in that case said court or judges shall have power to commit such child to the industrial school. In either case said court or judges may sentence such person to be confined in the correctional department of said industrial school for any term not exceeding six months. Upon application of the mayor, or any member of the supervisors, or of any three citizens, charging that any child under eighteen years of age lives an idle, or dissolute life, and that his parents are dead, or, if living, do, from drunkenness or other vices or causes, neglect to provide any suitable employment, or exercise salutary control over such child, the said court or judges shall have power to examine the matter, and upon being satisfied of the truth of such charges, may sentence such child to the industrial school; provided, that no person shall be so sentenced for a longer period than until he arrive at the age of eighteen years.

§ 236. In cases where, for any offense, the said court or judges are authorized to impose a fine, or imprisonment in the county jail, or both, it or they may instead sentence the offender to be employed at labor on the public works, or in the house of correction or workhouse as the supervisors may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and may, in case a fine is imposed, embrace as a part of the sentence that in default of payment thereof the offender shall be obliged to labor on said works, at said house of correction or workhouse, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied; provided, that no person under the age of twenty-one years, or who is to be sentenced, on conviction for drunkenness or breach of the peace, shall be sentenced to labor upon the public works away from the house of correction or workhouse.

§ 237. The said court and judges may punish contempts in the same manner and to the same extent as superior courts, and the laws concerning contempts applicable to superior courts shall be applicable to said police court and judges.

§ 238. The county clerk shall keep a record of the proceedings of the police court, issue all process ordered by said court, and shall render to the auditor,

monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account, upon oath, of all fines imposed, and all bail forfeited, and moneys collected, as clerk of said court, since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the police judges, in cases not exceeding one thousand dollars, and he shall fix, justify, and accept bail after arrest, in the absence of the police judges, in all cases not amounting to a felony, in the same manner and with the like effect as if the same had been fixed by the police judges or police court. The county clerk shall appoint three deputy clerks, who shall act as deputy clerks of said police court. The clerk and the deputy clerks in this section mentioned shall have authority to administer oaths and affirmations, and take and certify affidavits in any proceeding in said police court, in and for said city and county, and to issue subpoenas.

§ 239. The police judges and the deputy clerks shall attend at the court-rooms of said court for the dispatch of business daily, from the hour of nine o'clock a. m. until five o'clock p. m., and during such other reasonable hours as may be necessary for the discharge of their respective duties, except on legal holidays.

§ 240. The county clerk, as clerk of the police court, shall pay to the treasurer of said city and county, immediately, all fines collected and bail forfeited, accompanied by a verified written statement showing from whom each fine was collected, when collected, in what case, specifying the offense, and in what amount, and in what case and by whom such bail was forfeited. He shall immediately upon the forfeiting of any bail bond in the police court, transmit to the district attorney a copy of such bail bond, duly certified by him under the seal of that court to be a true copy, stating in such certificate the fact of such forfeiture, and the date thereof.

§ 241. Any justice of the peace of the said city and county who may be designated, in writing, by the mayor for the purpose, shall have power to preside in and hold the police court of said city and county, or any department thereof, in the event of the temporary absence of the police judges, or either of them, or of their inability to act from any cause; and during such temporary absence or disability the justice so designated shall act as police judge, and shall have and exercise all the powers, jurisdiction, and authority which are or may be by law conferred upon said court or judges.

§ 242. It shall be the duty of the assistant district attorneys, acting in the police court, or either and each of them, whenever they shall have been credibly informed that any person criminally injured by another is likely to die, to take the dying statement of such person, and to immediately reduce the same to writing. It is also hereby made the duty of attending physicians, and others knowing of such cases, to report the same immediately to such assistant district attorneys.

§ 243. No person shall be permitted to act as attorney or counsel before the police court or the police judges, unless he shall be an attorney and counselor admitted to practice in the supreme court of this state.

§ 244. The chief of police shall designate two or more policemen, who shall attend constantly upon the police court, act as bailiffs therein, and execute the orders and process of said court and the judges thereof.

§ 245. The police judge's court and the police judge's court number two of said city and county, and the offices of the judges thereof, shall be abolished at twelve o'clock noon, of the first Monday after the first day of January, in the year eighteen hundred and eighty-five, and at that time all records, registers, dockets, books, papers, actions, warrants, judgments, and proceedings lodged, deposited, or pending before the said last-mentioned courts, or the judges thereof, shall be by force hereof transferred to said police court, which police court and the police judges herein provided for shall have the same power and jurisdiction over them as if they had been in the first instance lodged, deposited, or commenced in said police court, or before the judges last aforesaid; but nothing herein contained shall affect any judgment rendered or proceeding had before that time in said police judge's court or said police judge's court number two, or before the judges thereof, or either of them.

§ 246. There shall be appointed by the judges of the superior court of such city and county five competent persons deputies to act as interpreters and translators of the following languages: French, German, Italian, Spanish, Portuguese, Chinese, and Slavonian. The said deputies shall each receive a salary of one thousand two hundred dollars per annum, which shall be paid in the same manner as the salaries of other officers are paid. It shall be the duty of each of said deputies to attend in all the courts in and for such city and county, when required by any of the judges thereof, without further compensation than the salaries above provided.

ARTICLE VI.—EDUCATIONAL DEPARTMENT.

§ 247. There shall be a board of education for such city, or city and county, which shall be composed of twelve school directors, elected as provided in this chapter, who shall hold office for two years, and until their successors are elected and qualified. They shall have the same qualifications as to eligibility requisite for members of the board of aldermen. Said board shall organize immediately after the election and qualification of its members, by electing a president from among the directors elected, and annually thereafter, and shall hold meetings monthly, and at such times as the board shall determine. A majority of all the members elected shall constitute a quorum to transact business, but a smaller number may adjourn from time to time. The board may determine the rules of its proceedings. Its sessions shall be public, and its record shall be open to public inspection.

§ 248. There shall be elected by the qualified voters of such city and county, at the general state election, a superintendent of schools, who shall take office on the first Monday after the first day of January next following his election, and hold office for the term of four years, and until his successor is elected and qualified. He shall perform such duties as are prescribed by law.

§ 249. The board of education shall have power:

1. To establish school districts, and to fix and alter the boundaries thereof.
2. To maintain public schools as organized at the time of the organization of such city, or city and county, under this act, and to consolidate and discontinue the same as the public good may require.
3. To establish high, normal, and experimental schools for the education of teachers.

4. To employ and pay and to dismiss teachers, janitors, school census marshals, and such mechanics and laborers, and such other persons as may be necessary to carry into effect the powers and duties of the board, and unless otherwise provided by law, to fix, alter, and allow paid their salaries and compensations, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

5. Also to make and establish and enforce all necessary and proper rules and regulations for the government and efficiency of the schools, teachers, and pupils, and for the carrying into effect of the school system; and to establish and regulate, and grade the schools, the course of studies and mode of instruction therein; to investigate all charges of misconduct on the part of teachers and other employees of the board; to administer oaths and take testimony; to summon and enforce the attendance of and examine witnesses for such purpose before the board, or a member or committee thereof. Any person summoned and refusing to attend and testify shall be deemed guilty of a misdemeanor; and any person testifying falsely shall be guilty of perjury, and on conviction punished accordingly.

6. To provide for the school department of such city, or city and county, fuel, lights, blanks, blank-books, books, printing, and stationery, and such other articles, materials, or supplies as may be necessary and appropriate for use in the schools, or in the office of the superintendent.

7. To build, alter, repair, rent, and provide school-houses, and furnish them with proper school furniture, apparatus, and appliances, and to insure any and all school property, and to use and control such buildings as may be necessary for the uses of the board and its committees.

8. To receive, purchase, lease, and hold in fee in trust for such city, or city and county, any and all real estate and personal property that may have been or which hereafter may be acquired for the use and benefit of the schools of such city, or city and county.

9. To grade, fence, and improve school lots, and in front thereof.

10. To sue for any and all lots, lands, and property belonging to or claimed by the school department of such city, or city and county, and to prosecute and defend all actions at law or in equity necessary to recover the full enjoyment and possession of said lots, lands, and property, and to require the services of the city, or city and county, attorney in all such suits and proceedings.

11. To establish regulations for the just and equal disbursement of all moneys belonging to the school department, or to the public school fund, and to make rules and regulations to secure economy and accountability in the expenditure of school money.

12. To discharge all legal encumbrances existing upon any school property; to dispose of and sell such personal property used in the schools as shall no longer be required, and all moneys realized by such sales shall be paid into the city treasury to the credit of the public school fund.

13. To lease, for the benefit of the public school fund, for a term not exceeding five years, any unoccupied property of the school department not required for school purposes; to prohibit any child under six years of age from attend-

ing the schools; and generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

§ 250. The president of the board of education, the superintendent, and the secretary shall have power to administer oaths or affirmations concerning any demands upon the treasury payable out of the public school fund, or other matters relating to their official duties or the school department.

§ 251. It shall be the duty of each director to make quarterly reports to the board of the condition of the schools in their respective districts.

§ 252. It shall be the duty of the board of education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred is likely to exceed two hundred dollars, shall be done by contract, let to the lowest responsible bidder, after advertisement by the superintendent of schools; and the contract shall be entered into by the superintendent with the party to whom the contract is awarded; and the superintendent shall take care that such contract is carried out in strict accordance with the terms thereof.

§ 253. All bids or proposals made under the preceding section shall be delivered to the superintendent of schools, and said board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder; provided, said board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any former contract with such city and county, or said board, and cause a republication of the notice for proposals as above specified. Any person may bid for any one article.

§ 254. Any school director, officer, or other person officially connected with the school department, or drawing a salary from the board of education, who shall, while in office, or so connected, or drawing salary, be interested, either directly or indirectly, in, or who shall gain any benefit or advantage from any contract payments under which are to be made in whole or in part of the moneys derived from the school fund, or raised by taxation or otherwise for the support of the public schools, shall be deemed guilty of felony, and on conviction, punished accordingly; and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed cumulative to and with other penalties and disabilities as to such acts and offenses.

§ 255. The board shall make and transmit, between the fifteenth day of January and the first day of February of each year, to the state superintendent of public instruction, and to the mayor and municipal council of such city, or city and county, a report, in writing, stating the whole number of public schools within the jurisdiction, the length of time they have been kept open, the number of pupils taught in each school, the whole amount of money drawn from the treasury by the department during the year, distinguishing the amounts drawn from the general fund of the state from all other, and from what sources, and the manner and purpose in which such money has been expended, with particulars, and such other information as may be required from them by the state superintendent, the municipal council, or the mayor.

§ 256. The board shall provide evening schools, to be held in the public school-houses, for the benefit of those unable to attend the day schools. They shall make and enforce regulations requiring the teachers to keep records of the names, ages, and residences of all pupils, and the names and residences of their parents, and the aggregate attendance of each pupil during the year, and to verify and report the same on the thirty-first day of December to the board; and such other rules and regulations for the purpose of ascertaining the attendance and efficiency of the department and progress of education.

§ 257. The superintendent of schools shall be ex officio member of the board of education, without the right to vote.

§ 258. Said superintendent shall appoint a clerk, subject to the approval of the board of education, who shall act as secretary of said board. His salary shall be two hundred dollars a month. Said clerk may be removed at the pleasure of the superintendent, and shall perform such duties as shall be required of him by the board or the superintendent.

§ 259. The superintendent shall report to the board annually, on or before the first day of August, and at such other time as the board may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of such city, or city and county, during the preceding fiscal year, with such recommendations as he may deem proper. He shall observe and cause to be observed, such general rules for the regulation, government, and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board. He shall attend the sessions of the board, and inform himself, at each session, of the condition of schools, school-houses, school funds, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in such city, or city and county. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in such city, or city and county, and the judicial decisions thereon, and give advice on subjects connected with the public schools gratuitously to officers, teachers, pupils, and their parents and guardians.

§ 260. The superintendent of schools shall visit and examine the schools, and see that they are efficiently conducted, and that the laws and regulations of the board are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report monthly to the board. He shall also report to the state superintendent at such times as such officer shall require.

§ 261. Any vacancy in the office of school director shall be filled for the remainder of the term by a person to be appointed by the board of aldermen.

§ 262. In case of a vacancy in the office of superintendent, the board of aldermen may appoint a person to fill the vacancy until the next regular election, when the office shall be filled by the people.

§ 263. The school fund of such city, or city and county, shall consist of all moneys received from the state school fund; of all moneys arising from taxes which shall be levied annually by the municipal council of such city, or city and county, for school purposes; of all moneys arising from sale, rent, or exchange of any school property, and of such other moneys as may, from any

source whatever, be paid into said school fund. Said fund shall be kept in the city, or city and county, treasury, separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. No fees or commissions shall be allowed or paid for assessing, collecting, keeping, or disbursing any school moneys; and if at the end of any fiscal year any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or drawn from said fund, except under the provisions of this chapter.

§ 264. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

1. For the payment of the salaries or wages of teachers, janitors, school census marshals, and other persons who may be employed by said board;
2. For the erection, alteration, repair, rent, and furnishing of school-houses;
3. For the expenses of high, normal, and experimental schools;
4. For the purchase money or rent of any real or personal property purchased or hired by the board;
5. For the insurance of all school property;
- [6 is omitted—misnumbered.]
7. For the discharge of all legal encumbrances now or hereafter existing on any school property;
8. For lighting school-rooms, and the office and rooms of the superintendent and the board of education;
9. For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children;
10. For supplying books, printing, and stationery, for the use of the superintendent and board of education, and for the incidental expenses of the board and department;
11. In grading, fencing, and improving school lots.

§ 265. All claims payable out of the school fund (excepting coupons for interest on school bonds), shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members elect of the board, upon a call of "yeas" and "nays" (which shall be recorded), they shall be signed by the president of the board and the superintendent of the public schools, and be sent to the city and county auditor. Every demand shall have indorsed upon it a certificate of its approval by the board, showing the date thereof, and the law authorizing it, by title, date, and section. All demands for teachers' salaries shall be payable monthly.

§ 266. Demands on the school fund may be audited and approved in the usual manner, although there shall not, at the time, be money in the treasury for the payment of the same; provided, that no demand on said fund shall be paid out of or become a charge against the school fund of any subsequent fiscal year; and further provided, that the entire expenditures of the said school department, for all purposes, shall not, in any fiscal year, exceed the revenues thereof for the same year.

§ 267. The city, or city and county, auditor shall state, by indorsement

upon any claim or demand audited on the school fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

§ 268. Audited bills for the current fiscal year for wages or salaries of the teachers in the public schools shall be receivable for school taxes due upon real estate. All demands shall be audited and paid in the usual manner.

§ 269. All lawful demands authorized by this chapter for school purposes shall be audited and approved in the usual manner, and the auditor and treasurer of such city, or city and county, are respectively authorized to audit and pay the same, when so ordered paid and approved by the said board; provided, that the said board shall not have the power to contract any debt or liability, in any form whatsoever, against such city, or city and county, in contravention of this chapter; and provided further, that the allowance or approval by the board of demands not authorized by this chapter shall be no warrant or authority to the auditor or treasurer to audit or pay the same.

§ 270. It shall be the duty of the board of education of such city, or city and county, on or before the second Monday of September of each year, to report to the municipal council an estimate of the amount of money which will be required during the year for the purpose of meeting the current annual expenses of public instruction in such city, or city and county, specifying the amount required for supplies furnished pupils, for purchasing and procuring sites, for leasing rooms or erecting buildings, and for furnishing, fitting up, altering, enlarging, and repairing buildings; for the support of schools organized since the last annual apportionment; for salary of teachers, janitors, clerks, and other employees, and other expenditures authorized by law; but the aggregate amount so reported shall not exceed the sum of thirty-five dollars for each pupil who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments. The number of pupils who shall be considered as having attended the schools during any one year shall be ascertained by adding together the number of days' attendance of all the pupils in the common schools during the year, and dividing the same by the number of school days in the year. Said municipal council is authorized and empowered to levy and cause to be collected, at the time and in the manner of levying state and other city, or city and county, taxes, the amount of tax, not to exceed thirty-five dollars per pupil, determined and reported by the board of education. The amount so levied and collected shall not include the amount received annually from poll-taxes.

§ 271. No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect are taught, inculcated, or practised, or in which any book or books containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect is used; nor shall any such books or teachings be permitted in the common schools.

§ 272. No member of the board of education shall ever become the disbursing agent of such board, or handle or pay out any of its moneys under or upon any pretense whatever. Any violation of this provision shall be a misdemeanor, and shall subject the offender, besides the punishment, to removal

from office. Any member or officer of the board of education who shall, while in office, accept any donation or gratuity in money, or of any valuable thing, either directly or indirectly, from any teacher, or candidate, or applicant for a position as teacher, upon any pretense whatever, shall be deemed guilty of a misdemeanor in office and shall be ousted by the board, or by any court of competent jurisdiction, from his seat, on proof thereof. Any member or officer of the board of education who shall accept any money, or valuable thing, or the promise thereof, with an agreement or understanding, express or implied, that any person shall, in consideration thereof, get the vote or influence of such member or officer for a situation as a teacher or employee of any kind in the school department, shall be deemed guilty of a felony, and on conviction, shall be punished accordingly.

ARTICLE VII.—MISCELLANEOUS PROVISIONS.

§ 286. All the existing provisions of law defining the duties of county officers, excepting those relating to supervisors and boards of supervisors, so far as the same are not inconsistent with, repealed, or altered by the provisions of this chapter, shall be considered as applicable to officers of any consolidated cities and counties, acting or elected under this chapter. Provisions shall be made from the revenues of any city, or city and county, heretofore existing and reorganized under this act, for the payment of the legal indebtedness of the municipal incorporation to which such reorganized city, or city and county, shall succeed, or of which it is a reorganization, as well as for that of such city, or city and county, after its organization, and all funding acts and other laws providing for the payments of principal and interest on any funded debt of such former corporation shall remain in force. The taxes which may be levied and collected in such city, or city and county, shall be uniform throughout the same.

§ 287. The provisions of this chapter concerning the following-named officers, to wit: Sheriff, county clerk, recorder, coroner, and public administrator, shall apply only to consolidated cities and counties. The provisions of this chapter relating to the district attorney shall, except in consolidated cities and counties, be deemed to apply to the city attorney; and no sheriff, county clerk, recorder, district attorney, coroner, or public administrator shall be elected in any municipal corporation under the provisions of this chapter, except in consolidated cities and counties.

§ 288. The municipal council of any such consolidated city and county shall perform such duties in and about the levy and equalization of state and county taxes, and all other matters and things as are or may be prescribed by law for boards of supervisors of counties in like cases, and not inconsistent with the provisions of this chapter.

CHAPTER III.

MUNICIPAL CORPORATIONS OF THE SECOND CLASS.

(A charter for cities having a population of more than thirty thousand and not exceeding one hundred thousand.)

ARTICLE I.—GENERAL POWERS.

§ 300. Every municipal corporation of the second class shall be entitled the city of — (naming it), and by such name shall have perpetual succession,

may sue, be sued, in all courts and places, and in all proceedings whatever, shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control, and dispose of the same for the common benefit; provided, that it shall purchase without the city no property except such as shall be deemed necessary for establishing hospitals, prisons, cemeteries, and industrial schools.

ARTICLE II.—GENERAL PROVISIONS RELATING TO OFFICERS.

§ 301. The municipal election shall be held on the second Monday of March of each even-numbered year, and such election shall be subject to all the provisions of the law regulating elections for state officers, except as otherwise provided in this chapter. At such election there shall be elected for the government of the city the following officers: Seven councilmen, who shall constitute a board to be known as the city council; a mayor; a treasurer, who shall be ex officio clerk of the city council; a city attorney; a school superintendent, and a street superintendent, who shall respectively hold office for the term of two years, and until their successors are elected and qualified. One councilman shall be elected from each ward, by vote of the city at large, and shall hold office for the term of two years, and until his successor is elected and qualified.

§ 302. The clerk and treasurer, superintendent of public schools, street superintendent, and all other officers when required by the city council by ordinance, shall each, before entering upon his official duties, and within ten days after receipt of his certificate of election or appointment, execute a bond, in such sum as the council may direct, payable to the city; which bond shall be subject to the law concerning the official bonds of officers, and to approval by the mayor. And the council may at any time require an additional amount, or new sureties, upon any bond which it may deem insufficient. If such additional security be not given, the council, upon notification thereof by the mayor, may, by vote of two thirds of the members, declare the office vacant.

§ 303. All fees, percentages, and all other moneys received or collected by any officer of the city, shall be paid by such officer, at the end of each month, into the city treasury, for the use of the city; and no payment shall be made to any officer for salary until he shall have taken, and filed with the clerk, an affidavit that he has paid into the city treasury, all fees, percentages, and all other moneys by him theretofore received or collected.

§ 304. No member of the city council, or of the board of education, nor any officer of the city, shall be surety upon the official bond of any corporate officer, nor shall he be, directly or indirectly, interested with or be surety for any person who may be interested in any franchise, contract, appropriation, work, or business, or in the sale of anything the price of or consideration for which is paid or payable by the city, or by assessments levied under an ordinance of the council; nor shall any contract be awarded or franchise granted to any person who may be surety on the official bond of any officer of the city.

§ 305. If any officer of such city, or member of the city council, or board of education, shall remove from the city, or absent himself therefrom for more

than thirty days, or shall fail to qualify by taking the oath of office as prescribed by law, or to file his official bond, whenever such bond is required, within ten days from the time his election is duly ascertained and declared, his office shall be hereby absolutely vacated, and the city council shall thereupon fill the vacancy upon nomination by the mayor.

§ 306. Every officer provided for in this chapter shall, before entering upon the duties of his office, take and file with the treasurer the constitutional oath of office; provided, that the oath of office of the treasurer shall be filed with the mayor.

§ 307. The salaries of the officers of such city shall be as follows: Mayor, one thousand dollars per annum; clerk and treasurer, two thousand dollars per annum; assistant to the clerk and treasurer, one thousand two hundred dollars per annum; clerk of the police court, one thousand two hundred dollars per annum; clerk to the police court, nine hundred dollars per annum; city attorney, two thousand dollars per annum; street superintendent, one thousand eight hundred dollars per annum; captain of police, one thousand eight hundred dollars per annum; police detective, one thousand five hundred dollars per annum; school superintendent, two thousand dollars per annum; assistant school superintendent, one thousand two hundred dollars per annum; policemen, nine hundred dollars per annum each. The mayor may appoint a clerk, who shall receive a salary of nine hundred dollars per annum. The salaries of all officers shall be paid in monthly instalments, at the end of each and every month of service.

ARTICLE III.—LEGISLATIVE DEPARTMENT.

§ 319. The city council shall meet on the first Monday after their election, and at such other times as they may by ordinance appoint. A majority of the council shall constitute a quorum for the transaction of business. They shall determine the rules of their proceedings, and judge of the qualification and election of all officers; and shall provide, by ordinance, the method of calling special meetings of the council. Their sittings shall be public. A journal of their proceedings shall be kept by the clerk, under their direction; and the ayes and noes shall be taken and entered on the journal at the request of any member. They shall prescribe, by ordinance, the duties of all officers whose duties are not defined in this act. They shall have the power to raise, by tax, not exceeding one per centum for all purposes (except for the redemption of bonds) on the assessed value of the real and personal property within the limits of such city, moneys for the establishment and support of free common schools, and to provide suitable grounds and buildings therefor, and defraying the ordinary expenses of the city, as well as for paving, planking, or otherwise improving the streets of the city. They shall also have power to pass all proper and necessary ordinances for the regulation and sale of city property, and to give deeds therefor. They shall have power to open, alter, establish, grade, or otherwise improve and regulate, streets, alleys, and lanes, and the sidewalks upon the same; to construct and keep in repair bridges, so as not to interfere with navigation, fences, public places, wharves, docks, ferries, piers, slips, sewers, and wells, and to make assessments therefor; to regulate and collect tolls, wharfage, dockage, and cranage, upon all water

craft, and all goods landed; to make regulations for securing the health, cleanliness, ornament, peace, and good order of the city; for preventing and extinguishing fires, and appointing and regulating firemen, policemen, and such other officers as may be necessary to appoint; for the care and regulation of prisons and markets; for licensing, taxing, and regulating all such vehicles, business, and employments as the public good may require, and as may not be prohibited by law; to levy a tax license upon all dogs, or otherwise prevent the same from running at large in the streets and public grounds of the city; to regulate and suppress all occupations, houses, places, amusements, and exhibitions which are against good morals, or contrary to the public order and decency; for the regulation and location of slaughter-houses, markets, stables, and gas-works, and houses for the storage of gunpowder and other combustible materials, and limit the quantity of combustible or explosive materials to be stored in any one place; for prohibiting or suppressing the erection of slaughter-houses, or the slaughtering of animals within the limits of the city, and for prohibiting or suppressing the erection or carrying on of any soap or glue factory, tan-yard, powder-magazine, or other nuisance within the limits of the city; and to declare what shall constitute a nuisance; and to make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws; and provide suitable buildings for the management, good government, and general welfare of the city. They shall also have power to pass such ordinance or ordinances as may be necessary to prevent animals from running at large within the limits of the city; to establish a pound, and appoint a poundkeeper, and prescribe his duties, and to provide for the public sale, by the poundkeeper, of such animals as may be impounded, in the same way and upon like notice that personal property is sold by execution under the laws of this state; provided, that the owner or owners of such property so impounded may reclaim the same at any time before sale, upon payment of costs and charges of taking up and impounding; and, within thirty days after the sale, upon proof of ownership of the property sold, duly made before the mayor, and upon payment of the costs and expenses of impounding and selling, and upon the payment of the sum of one dollar to the mayor, as a fee for the investigation of the question of ownership, and for his certificate to that effect, such owner or owners may receive the purchase money arising from such sale or sales. Penalties for the violation of any and all ordinances shall be by fine not exceeding one hundred dollars, and in case the fine be not paid, then the person or persons may be imprisoned at the rate of one day for every two dollars of the fine imposed, or in lieu of the imprisonment, or any part of it, the person or persons so fined shall labor, under the direction of the city authorities, either upon the streets, public grounds, or buildings, or in such other places as may be deemed advisable for the benefit or revenue of said city. The city council, upon the nomination of the mayor, shall have power to appoint suitable persons to fill vacancies in any elective office, except that of mayor, until the next regular municipal election, when, if the term be unexpired, an election shall be held to fill such vacancy for the unexpired term of said officers. The members of the city council shall receive no salary for their services. They shall have power to provide for all city elections, to designate the place or places of holding the

same, giving at least ten days' notice thereof; to appoint inspectors and judges of election, examine the returns, and declare the result, and to determine contested elections. The president pro tempore of the board shall discharge the duties of mayor whenever there shall be a vacancy in the office of mayor, or when the mayor shall be absent from the city for a period exceeding five days, or be unable, from sickness, to attend to the duties of his office. In the absence of the clerk, the city council shall appoint one of their members to act as clerk pro tempore; they shall also have power to set aside any amount of money belonging to the city which may at any time be in the hands of the treasurer, after deducting the current expenses of the city, and the interest due upon the funded debts of the city, as a sinking fund whereby the bonds issued by the city may be redeemed, or they may, at any time before said bonds shall become due, with any surplus money which may belong to the city, after paying said expenses and interest, redeem or purchase for the city, and in its name, in the manner most advantageous to the city, any outstanding bonds, which bonds or claims, when so purchased, shall be immediately canceled; provided, this right shall not affect the rights of the holders of said bonds, or in any way prevent them from holding the same until said bonds become due and payable; they shall also have the power to determine the width of sidewalks, and the material and manner of their construction, as well as the grade of the same; they shall also have the power to establish fire districts, and within said districts to prevent the erection of wooden buildings, or any buildings composed of combustible materials, and also prevent the further repairing of wooden buildings within the fire limits established.

§ 320. Said council shall also have power:

1. To regulate the construction of sinks, gutters, wells, cesspools and privy vaults, and to compel the cleansing or emptying of the same, and the time and manner in which the work shall be done.

2. To regulate the anchorage of vessels within the limits of the city, and to prevent obstructions to the free navigation of all navigable waters within the same.

3. To prevent persons from throwing into any stream, creek, bay, or other body of water within the limits of the city, from vessels, wharves, or other places any dirt, ballast, ashes, garbage, dead animals, or other materials that may obstruct the same or pollute the water thereof.

4. To open streets to the channel of any navigable stream or creek within the limits of the city, and to deep water to [in] any navigable bay or lake within the same, and to construct and maintain public wharves at the ends of such streets.

5. To regulate the location of steam-boilers, the putting up of signs and awnings, and the construction of entrances to basements or cellars from the sidewalks.

6. To establish hack stands, and to regulate the rates of charges of hacks and other licensed vehicles, and to require a schedule of such charges, printed in conspicuous type and satisfactory to the council, to be posted in a conspicuous place in each hack or other licensed vehicle; provided, however, that the standing of hacks shall not be permitted on any street upon which railroads operated by steam shall be used.

7. To compel the attendance of absent members of said council at any of the meetings thereof, and to cause the arrest of any person for disorderly conduct at their meetings.

8. To regulate the speed of railway engines in the city, and to require railroad companies to station flagmen at street crossings; to grant franchises permitting steam railroads upon any of the streets of the city; provided, that the same shall only be granted after two weeks' notice, previously published in some newspaper published in the city, and by ordinance passed by the vote of two thirds of the members elected to said council, approved by the mayor, and upon the previous petition, in writing, of the owners of two thirds of the front feet of the lands upon the portion of the street to be so used.

9. To regulate the means of entrance to and exit from theaters, lecture-rooms, public halls, and churches, and to prohibit the placing of chairs, stools, benches, or other obstructions in the aisles of such buildings.

10. To require railroad companies to keep the street in repair between the tracks and along and within the distance of two feet upon each side of the track occupied by the company.

§ 321. They shall also have the exclusive right, in the manner prescribed by ordinance, of issuing and granting licenses, and of collecting tax licenses for the benefit of the city, upon the following business and property, to wit: Upon each and every person within the limits of the city who shall vend any goods, wares or merchandise, wines, distilled or fermented liquors, drugs, medicines, jewelry, or wares of precious metals; upon persons who keep horses or carriages for rent or hire; upon persons keeping billiard tables for hire, bowling alleys, and shooting galleries; also upon all taverns, innkeepers, and upon all persons who may sell or dispose of any malt, spirituous or fermented liquors or wines in less quantities than one quart; and the said licenses shall be issued quarterly or yearly. Also upon any person within the limits of the city, who shall keep a stallion, jack, bull, or ram, and who shall permit the same to be used for the purpose of propagation for hire or profit, which license shall be a yearly license; all of which licenses when granted by such city and duly obtained by the person or persons desiring the same, shall entitle them to carry on such business, trade, or profession in such city.

§ 322. All sales or leases of property belonging to the city shall be by public auction to the highest bidder, and upon such terms and conditions as the council may by ordinance direct; and all contracts for supplies, of any kind, for more than five hundred dollars, shall be let to the lowest responsible bidder, after ten days' notice given by posting the same in three of the most public places in the city, or by publishing the same in any newspaper printed and published in such city.

§ 323. Licenses shall be discriminating and proportionate to the amount of business; and it shall be the duty of the council, by ordinance, to classify all kinds of business licensed in accordance herewith.

§ 324. The enacting clause of all ordinances shall be as follows: "The mayor and council of the city of ——— do ordain as follows." Every ordinance passed by the city council shall be presented to the mayor for his approval; if he approve it, he shall sign it; if not, he shall return it at the first

meeting of the council held after five days thereafter, or at its next meeting; when the city council shall reconsider such ordinance, and if the same be approved by a vote of two thirds of all the members elected, and not otherwise, the same shall take effect and stand as an ordinance of such city. All ordinances shall be published for one week in a newspaper printed and published in such city, as often during such period as such newspaper shall be published.

§ 325. The council shall, upon the first Monday of October in each year, fix the rate of taxation to be levied upon all property, both real and personal, in said municipality necessary to raise sufficient revenue to carry on the various departments of the city government for the then ensuing year, not to exceed one dollar for each one hundred dollars upon the assessment roll, and to pay the bonded and other indebtedness of said city. The said council must, upon fixing said amount, transmit a statement thereof to the county auditor. The action of the city council in fixing the rate of taxation for city purposes is a valid levy of the rate so fixed upon all property, both real and personal, in the said city, and borne upon the assessment roll of said county, and has the effect provided in sections three thousand seven hundred and sixteen, three thousand seven hundred and seventeen, and three thousand seven hundred and eighteen of the Political Code, in regard to state and county taxes. The county auditor shall thereupon compute and enter, in a separate money column in the assessment book, the respective sums, in dollars and cents, rejecting the fractions of a cent, to be paid as a tax on the property therein enumerated, for the purposes of such city government, and foot up the column, showing the total amount of such taxes. The taxes so levied and computed shall be collected at the same time and in the same manner as state and county taxes; and when collected, shall be paid into the county treasury for the use of said city; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law, for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments, under the provisions of this chapter, shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes. The county treasurer must, at any time upon the demand of the city treasurer and mayor, settle with the city treasurer, and pay over to him all moneys in the county treasury belonging to such city, taking the receipt of the mayor and city treasurer therefor. The county treasurer shall receive, as compensation for all services rendered under this section as tax collector and treasurer, one third of one per centum of all moneys collected and paid over to the city treasurer, but not to exceed in all one thousand dollars per annum. The county treasurer and tax collector shall be liable on his official bond for all moneys received by him under the provisions of this section.

§ 326. In all matters before the city council concerning the granting of franchises, letting of contracts, auditing of bills, ordering of work to be done or supplies to be furnished, or whatever may involve the payment of money, or incurring of debt by the city, the vote shall be by yeas and nays, and be recorded in the journal.

§ 327. No member of the city' council shall vote in the council upon any motion, resolution, or ordinance, in favor of any franchise, contract, bill, award, or appropriation, in which he may have any pecuniary interest, present or prospective.

§ 328. The city council shall not create, allow or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; nor shall any warrant be drawn or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

§ 329. If, at any time, the city council shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least three weeks in some newspaper published in such city, as often during said period as said newspaper shall be published; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the city council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and an annual tax shall be levied and collected upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due: and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the city council, in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be exclusively appropriated to the payment of the principal and interest of such indebtedness, and the city treasurer shall be liable upon his official bond for any part of said fund otherwise used or appropriated.

§ 330. It shall be the duty of the city council before levying the annual city tax, to establish, by ordinance, separate funds, representing the several funded obligations of the city, if any, and the several departments requiring municipal expenditures, including a general fund, and the percentage of said levy shall be named for each fund, and the whole amount of taxes and revenues of the city apportioned accordingly, and no transfer shall be made except of balances in excess, or from the general fund to meet deficiencies, or to provide for the redemption of city bonds.

§ 331. Any city having a bonded indebtedness, contracted under laws heretofore passed, shall levy such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes

herein authorized to be levied. All moneys' received from licenses, and from fines, penalties, and for forfeitures, shall be paid into the general fund.

§ 332. The city council shall have power, upon the payment of just compensation, to lay out and open new streets, lanes, alleys, courts, and places within the corporate limits of the city, but shall have no power to subject the city to any expense therefor, except for the necessary expense of surveying and mapping out the same, and when said streets are so laid out and opened, the provisions of this chapter shall be applicable thereto.

§ 333. The city council of said city shall have power to issue and collect an annual tax license on draymen, cabmen, omnibus proprietors, expressmen, and other common carriers doing business in the city, the proceeds of said licenses to be devoted to a street department fund for keeping in repair the streets in the city. Said annual license not be more than twelve dollars nor be less than eight dollars for such persons so licensed.

§ 334. The city council is empowered to open, extend, and widen streets, and to modify the boundaries thereof within its corporate limits, and to determine the property benefited thereby, and to assess the expenses of such improvement upon the property benefited, as hereinafter provided.

§ 335. All proceedings under said power shall be commenced by petition of five or more residents and freeholders within the city, signed by the petitioners, addressed to the city council, and filed with the clerk of said council. Such petition shall contain:

1. The names of the petitioners, and a statement that each of the petitioners is a resident and freeholder within the city;
2. A statement that, in the opinion of the petitioners, the public interests require that the improvement asked for (describing it generally) should be made;
3. A request that the council proceed to order the improvement made.

§ 336. At the regular meeting next after the meeting at which the petition is presented to the council, or at any subsequent meeting to which the proceedings may be regularly adjourned, the said council may, by resolution duly passed, determine the lands to be benefited by the improvement asked for in the petition, and to be assessed for the expenses thereof. Said resolution shall contain a description of each lot, piece, or parcel of land necessary to be taken and condemned for such improvement, and shall also specify the exterior boundaries of the district of land benefited thereby, and to be assessed therefor, and shall direct the city engineer to make a survey and map of the lands described in the resolution, a copy of which resolution shall be forthwith transmitted by the clerk of said council to the said city engineer.

§ 337. It shall be the duty of the city engineer, immediately upon receiving a copy of the resolution mentioned in section four, to survey the lands described in said resolution and make a map thereof, and to return said map to said council within twenty (20) days from the receipt by him of said copy of the resolution; said map shall show each piece, tract, or parcel of land necessary to be taken and condemned for said improvement, and also the exterior boundaries of the district to be benefited by such improvement and to be assessed on account of the cost and expenses thereof, as declared in the resolution, and the area

thereof, exclusive of public streets and alleys. Said city engineer shall have the right to enter upon the lands and make examinations and surveys thereof, and such entry shall constitute no cause of action in favor of the owners of said lands, except for injuries resulting from negligence, wantonness, or malice.

§ 338. The council, at its regular meeting next after the return of the map by the city engineer, shall pass a preliminary resolution, declaring the intention of the corporation to make the improvement asked for in the petition. Said resolution shall contain a description of each piece, lot, or tract of land necessary and sought to be taken and condemned for the improvement, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof; the resolution shall also specify a time, not more than fifteen (15) days from the passage thereof, for the hearing by said council of objections to the proposed improvement, and said resolution shall be published in at least one daily paper printed and circulated in the city, daily (Sundays and non-judicial days excepted), for at least ten (10) days prior to the time fixed for said hearing.

§ 339. If a majority of the owners of the lands in area to be assessed for the expenses of said improvement shall, on or before the day fixed by said resolution for the hearing of objections, appear and protest against said improvement, the proceedings shall be discontinued; provided, however, that such protest must be in writing, and shall contain a description of the land claimed by each protestant; and provided further, that the council may, by an unanimous vote of all its members, approved by the mayor, proceed to cause such improvement to be made, notwithstanding such protest.

§ 340. If the owners of a majority in area of the property to be assessed for the expenses of said improvement fail to appear and protest as provided in section seven, or if the council, by an unanimous vote, approved by the mayor, order said improvement to be made, said council must immediately pass a final resolution, declaring such determination. Such resolution shall refer to the said preliminary resolution, by its number, for a description of the lands necessary and sought to be taken and condemned for said improvement, and the district to be assessed for the expenses thereof.

§ 341. Immediately after the passage of such final resolution, the council shall apply to the superior court of the county in which such city is situated, either in term time or vacation, by petition, for the appointing of three commissioners to assess the compensation which shall be paid to the owners thereof for the lands sought to be taken for such improvement, and to assess upon the property within the district to be benefited thereby the costs of such improvement. Said petition shall recite all the proceedings had in the premises, and shall specify the exterior boundaries of the lands sought to be taken, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof. A copy of the map made by the city engineer shall be annexed to said petition, and may be referred to in the petition for a description of the lands aforesaid.

§ 342. Upon filing such petition, such court shall pass and take such jurisdiction of such proceeding, and such court, or a judge thereof, shall, by order, fix a day for the hearing of such petition, which shall be not less than ten nor

more than twenty days from the date of such order. Such order shall further direct notice of the time and place of such hearing to be given by the clerk by publication in two daily newspapers published in such city, and designated in such order, for at least a period of ten days in succession.

§ 343. Such notice shall specify the exterior boundaries of the lands sought to be taken for such improvement, and of the lands declared to be profited thereby and to be assessed for the expenses thereof, and shall further state that the damages to which the owner or owners of the land sought to be taken may be entitled for the same will be inquired into and determined, and that such damages, together with the cost of the proceedings for the acquiring title to such lands, and making apportionment thereof, will be apportioned and assessed upon the lands to be benefited thereby, by commissioners to be appointed by such court, on the day fixed by such order for the hearing. Such notice shall be published daily for at least ten days (Sundays and non-judicial days excepted) before such hearing.

§ 344. At the time fixed for the hearing, or at such other time as the hearing may be adjourned to, the court shall proceed to hear any person interested touching the regularity of the proceedings, and if satisfied that the proceedings have been regular, shall appoint three competent and disinterested commissioners. The court may at any time, remove any or all such commissioners for cause, upon reasonable notice and hearing, and may fill the vacancies occurring among them from any cause. Any persons interested may object to the appointment of any person as commissioner, on one or more of the grounds specified in section six hundred and forty-one of the Code of Civil Procedure, as grounds for the objection to the appointment of persons as referees.

§ 345. Commissioners shall be sworn to faithfully perform their duties according to the provisions of this chapter. They shall then proceed to view the lands mentioned and described in such resolution and petition, and may examine witnesses on oath, to be administered by any one of them, and shall keep minutes of the testimony so taken; they shall ascertain and appraise the value of the property sought to be taken for the improvements, and of all improvements thereon partaking of the realty, and of each and every estate therein; if it consist of different parcels, the value of each parcel and each estate, or interest therein, shall be separately appraised; if this property sought to be taken constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned or taken, by reason of the severance from the portion sought to be taken, and the construction of the improvement in the manner proposed shall be appraised by said commissioners; they shall also ascertain and determine, as near as may be, the entire costs of the proceedings for the opening, extension, or improvement aforesaid, including the costs of court and of commissioners; they shall then proceed to apportion and assess the whole amount of such costs and expenses, value of property sought to be taken, and damages to property not taken, upon the property within the district declared by the resolution of the council to be benefited by said improvement, and shall assess each tract, lot, piece, or parcel of land within said district in proportion to the benefits received by it from said improvement.

§ 346. The said commissioners, within a time to be fixed by the court, shall make a report of their proceedings, under their hands, or the hands of a majority

of them, to the said court, in which report they shall describe, with common certainty, the several parcels of land sought to be taken for such improvement, and the names of the owners thereof, respectively, so far as they can be ascertained, designating unknown owners, if any such there be, and the sum of money which should be paid to each of said owners, as his or her compensation for the land necessary and sought to be taken and condemned for such improvement, or of his or her estate, therein; and in case only a part of a larger parcel has been taken for such improvement, and the remaining portion is damaged or benefited thereby, they shall describe such remaining portion, and specify the sum to be paid or assessed to the owner thereof, or such damages or benefits as the case may be; they shall also describe, with common certainty, the several parcels of land within the district deemed to be benefited by said improvement, and the names of the owners thereof, so far as they can be ascertained, designating unknown owners, if such there be, and the sum of money which is assessed upon each particular parcel, and which should be paid by the owner thereof.

§ 347. Upon the filing of such report, the said court shall, by order, fix a day for hearing objections to the confirmation thereof, and shall direct notice of the time and place of said hearing to be given by the clerk, by publication in a daily newspaper published in said city, for at least ten days (Sundays and non-judicial days excepted), prior to said day of hearing.

§ 348. Upon the day fixed for the hearing, the court shall proceed to hear any person interested upon any question touching the regularity of the proceedings, the sufficiency of the compensation awarded, or the justice or equality of the assessment, and may confirm said report or set the same aside, or remand the same for correction or alteration in any particular. If the report be set aside, the matter may in like manner be referred to the same or new commissioners appointed by the court, who shall proceed as hereinbefore provided; if the report be remanded, it shall be corrected, or altered in any particular required by the court.

§ 349. The commissioners shall be entitled to reasonable compensation for their services, to be certified to by the court, and taxed as part of the expenses of the proceeding.

§ 350. Upon confirmation of the report of the commissioners, judgment shall be rendered by the court thereon, which judgment must describe each parcel of land taken for such improvement, and the amount to which the owner is entitled as compensation or damages for the taking thereof, and the name of such owner or owners, if known; and in case only a portion of a larger parcel is taken, such judgment must describe such remaining portion, and the amount, if anything, to which the owner thereof is entitled as damages; and must also describe each parcel of land assessed for the expenses of such improvement, and the amount so assessed upon each parcel respectively. Such judgment shall direct a sale of each parcel so assessed, or so much thereof as may be necessary to pay the amount of such assessment and expenses of sale, and the application of the proceeds of such sale to the payment of the expenses of such sale, and the amount of compensation and damages awarded by such judgment. Such judgment shall be a lien upon the property against which such assessment is made, and may be enforced by a sale of the property assessed, as hereinafter provided.

§ 351. Within thirty days after the entry of such judgment, the persons liable must pay to the clerk of the court, for the benefit of the parties entitled thereto, the several amounts specified in such judgment, in default of which the respective parcels of land upon which such assessments have not been paid shall be sold by the sheriff of such county under a certified copy of such judgment, and in the manner provided by law for the sale of property upon decree of foreclosure of mortgage.

§ 352. The moneys realized from such sale shall be paid by the officer making the same, to the clerk of the court, for the benefit of the parties entitled thereto.

§ 353. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have been paid to the clerk, either by voluntary payment or as moneys realized from sales under such judgment, the court must make and enter a final order or decree of condemnation of the lands taken for such improvement, which order or decree shall describe the property condemned and the purpose of such condemnation.

§ 354. A copy of such order or decree must be filed in the office of the recorder of such county, and thereupon, the property described therein shall vest in such city for the uses and purposes therein specified; and such city shall be entitled to and may take immediate possession thereof.

§ 355. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have come to the hands of the clerk, he shall, upon the demand of any person entitled thereto, pay to said party the amount awarded to him or her by said judgment.

§ 356. If there is more than one claimant to any parcel of land taken for such improvement, or if the owner of any parcel is unknown, the amount awarded as damages or compensation for the taking thereof shall remain in court to be awarded to the true owner by due process of law.

§ 357. Any party feeling aggrieved by any proceedings, orders, or judgments of such court herein provided for may appeal to the supreme court, as in other cases.

§ 358. The city council shall not have power to appoint a greater number of policemen than shall be equal to one for every one thousand of the population of such city. No policeman or member of the fire department shall be removed from office except upon the order and direction of the mayor, and after charges in writing have been made against him, and evidence upon the same shall have been heard in public in the mode and manner to be prescribed by ordinance.

§ 359. All gas and water pipes laid in any paved, macadamized, or graded street must be of sufficient capacity to afford a free supply of gas or water for the estimated necessities of such street, and the district to be supplied by such pipes, for a period of not less than five years from the time of laying the same; which estimate of necessity and capacity shall be made by the city engineer, and approved by the council. It shall be the duty of the council, by ordinance, to prescribe regulations for the laying of gas and water pipes in the public streets.

ARTICLE IV.—EXECUTIVE DEPARTMENT.

§ 370. The mayor shall preside at all meetings of the city council, but the council shall elect a president pro tempore to preside during his absence. He

shall communicate to the council semiannually, or oftener if necessary a general statement of the situation and condition of the city, together with such recommendations relative thereto as he may deem expedient. He shall be vigilant and active in causing the ordinances of the city to be executed and enforced. He shall be the head of police, and shall exercise a supervision and control over the conduct of all subordinate officers, and receive and examine into all complaints preferred against any of them for violation or neglect of duty, and certify the same to the council. He shall sign all ordinances and contracts made on behalf of the city, and countersign all licenses and warrants on the treasury. He shall keep accounts current with every officer charged with the receipt or disbursement of money, and perform all the duties of an auditor. He shall perform such other duties as may be prescribed by law or ordinance.

§ 371. Every demand upon the treasury, except for the salary of the mayor, must, before it can be paid, be presented to the mayor, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the mayor, or of the city council, or of any other board or officer, of any demand which upon the face of it appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. The demand of the mayor for his salary shall be audited and allowed by the president pro tempore of the city council.

§ 372. The chief of police shall execute, within the city, and return all process issued and directed to him by the city justices, or either of them, arrest all persons guilty of a breach of the peace, or of a violation of any ordinance of the council, and take them before the proper magistrate within the city; and do and perform such other duties as may be prescribed by ordinance or may be required by the mayor.

§ 373. The records kept by the street superintendent of the city, and signed by him, shall have the same force and effect as other public records, and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

§ 374. The street superintendent shall keep a public office in some convenient place to be designated by the city council, and such records as may be required by law. He shall superintend and direct the cleaning of all the sewers in the public streets, and the expense of the same shall be paid out of the street department fund, and perform all duties required by law or ordinance of such city.

§ 375. It shall be the duty of the street superintendent to see that the laws, orders, and regulations relating to the public streets and highways are fully carried into execution, and that the penalties therefor are regularly enforced. He shall keep himself informed of the condition of all public streets and highways, and also of all public buildings, parks, lots, and ground[s] of the city, as may be prescribed by the council; and should he fail to see the laws, orders, and

regulations relative to the public streets and highways carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in person or property in consequence of such neglect.

§ 376. If, in consequence of any graded street or public highway, improved under the provisions of this chapter, being out of repair, and in a condition to endanger persons or animals passing therein, any person while carefully using such street or public highway, and exercising ordinary care to avoid such danger, suffer damage to his person, or if any animals or other property, being lawfully ridden, driven, or conveyed through such street or public highway, be injured, lost, or destroyed through any such defect therein, no recourse for damages thus suffered shall be had against the city; but if such defect in such street or public highway shall have existed for a period of twenty-four hours or more after notice to the street superintendent, then the street superintendent, and also all other officers through whose official negligence such defect shall have remained unrepaired, shall jointly and severally be liable to the party injured for the damages so sustained.

§ 377. The city council shall have power to appoint a city engineer, and by ordinance to prescribe his duties and fix his compensation, not to exceed eighteen hundred dollars per annum. It shall be the duty of the city engineer to do the surveying and other work necessary to be done by law or any ordinance of said city, and to survey, measure, and estimate the work done and to be done under contracts for grading streets; and every certificate of work done by him, signed in his official capacity, shall be *prima facie* evidence in all the courts of this state of the truth of its contents; he shall also keep a record of all surveys made by him.

§ 378. The treasurer shall receive and pay out all moneys belonging to the city, and keep an account of all receipts and expenditures, under such regulations as may be prescribed by ordinance; he shall make a monthly statement to the council of the receipts and expenditures of the preceding month, and in his capacity as city clerk he shall keep all the papers and documents belonging to the city, attend the meetings of the council, and keep a journal of their proceedings, and a record of all their ordinances, and shall do all other things required of him by ordinances.

§ 379. It shall be the duty of the several elected and appointed officers of said city, whenever required by the city council, to make reports to the said council, and in the manner required of them; and in their reports to embody all the matters and information required pertaining to the duties of their respective offices.

§ 380. The city council may provide by ordinance for the election or appointment of any other officer or officers necessary for the good government of the city, and the proper administration of the public interest, and shall prescribe their duties and terms of office, and fix their compensation.

ARTICLE V.—JUDICIAL DEPARTMENT.

§ 390. The judicial power of the city shall be vested in a police court, to be held therein by the city justices, or one of them, to be designated by the mayor, but either of said city justices may hold such court without such designation,

and it is hereby made the duty of such city justices, in addition to the duties now required of them by law, to hold said police court.

§ 391. The police court shall have exclusive jurisdiction of the following public offenses committed in the city:

1. Petit larceny;
2. Assault or battery, not charged to have been committed upon a public officer in the discharge of official duty, or with intent to kill;
3. Breaches of the peace, riots, affrays, committing wilful injury to property, and all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment;
4. Of proceedings respecting vagrants, lewd or disorderly persons.

§ 392. Said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of an action for the collection of any license required by any ordinance of said city.

§ 393. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree, and in case of the sickness or inability of the city justices, either of them may call in a justice of the peace residing in the county to act in his place and stead.

§ 394. Each of the city justices, while acting as judge of said court, shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution as the case may require, according to law, and punish persons guilty of contempt of court; and shall have power to issue warrants of arrest in case of a criminal prosecution for a violation of a city ordinance, as well as in case of the violation of the criminal law of the state; also all subpoenas, and all other processes necessary to the full and proper exercise of his powers and jurisdiction, and in such of the cases enumerated in this section in which trial by jury is not secured by the constitution of the state, he may proceed to judgment in the first instance without a jury, but on appeal the defendant shall be entitled to trial by jury in the superior court.

§ 395. The police court shall have a clerk, to be appointed by the city council, upon the nomination of the mayor, who shall hold office during the pleasure of the council. The clerk shall keep a record of the proceedings of and issue all process ordered by the city justices, or either of them, or by said police court, and receive and pay weekly into the city treasury all fines imposed by said court. He shall also each month render to the mayor (as auditor) an exact and detailed account, upon oath, of all fines imposed and collected, and all fines imposed and uncollected, since his last report. He shall prepare bonds, justify bail, when the amount has been fixed by either of the city justices or said court, in cases not exceeding one hundred dollars, and may administer oaths. The clerk shall remain at the court-room of said court during business hours, and during such reasonable times thereafter as may be necessary for discharging his duty. Before receiving his salary, each or any month, he shall make and file with the auditor an affidavit that he has deposited with the city treasurer all moneys that have come to his hands belonging to the city. Any violation of this provision shall be a misdemeanor. He shall give a bond in the sum of five thousand dollars, with

at least two sureties to be approved by the mayor, conditioned for the faithful discharge of the duties of his office.

§ 396. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month; and all bills for fees and costs due the officers of said court shall be reported to the city council each month.

§ 397. The city council shall furnish a suitable room for the holding of said court, and shall also furnish the necessary dockets and blanks. One docket shall be styled "The City Criminal Docket," in which all the criminal business shall be recorded, and each case shall be alphabetically indexed; another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest, and each case shall be properly indexed. A third docket shall contain all the other business appertaining to the office of said city justice, and in all cases the docket shall contain all such entries as are required by law to be made in justices' dockets; and in any case tried before the court, the docket must show what duties were performed by any officer of the court, and the amount of the fees due to the officer for such services, and what amount of money, if any, collected.

§ 398. The police court shall be always open, except upon non-judicial days, and then for such purposes only as by law permitted or required of other courts of this state.

§ 399. Appeals may be taken from any judgment of said police court, to the superior court of the county in which such city may be situated, in the same manner in which appeals are taken from justices' courts in like cases.

§ 400. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city, the persons so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail, or if required to labor, shall labor in the city.

§ 401. Said court shall have a seal, to be furnished by the city.

§ 402. The city justices shall, on the first Tuesday of each month, make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket, or the city criminal docket; such report to be made upon blanks to be furnished by the city council, and in such form as they may require.

§ 403. Certified transcripts of the dockets, made by the clerk of said court, under the seal of said court, shall be evidence in any court of this state of the contents of said docket; and all warrants and other process issued out of said court, and all acts done by said court, and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

ARTICLE VI.—EDUCATIONAL DEPARTMENT.

§ 410. The government of the school department of the city shall be vested in a board of education, to consist of seven members, to be called school directors. One school director shall be elected from each ward at the regular municipal election, by the vote of the city at large, and shall hold office for the term of

four years, and until his successor is elected and qualified; provided, that the first board of education elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years.

§ 411. The board of education shall meet on the first Monday after their election, and elect one of their number president, and shall hold meetings at least once in each month thereafter at such times as shall be determined by a rule of said board. A majority of all the members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. The board may determine the rules of its proceedings. Its sessions shall be public, and its records shall be open to public inspection. The board shall also have power to fill all vacancies occurring in the board until the next regular municipal election.

§ 412. The board of education shall have sole power:

1. To establish and maintain public schools, and to establish school districts, and to fix and alter the boundaries thereof.

2. To employ and dismiss teachers, janitors, and school census marshals, and to fix, alter, allow and order paid their salaries or compensation, and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers and duties of the board, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

3. To make, establish, and enforce all necessary and proper rules and regulations, not contrary to law, for the government and progress of public schools within the city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education; also to establish and regulate the grade of schools, and determine what text-books, courses of study, and mode of instruction shall be used in said schools.

4. To provide for the school department of the city fuel and lights, water, blanks, blank-books, printing and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

5. To build, alter, repair, rent, and provide school-houses, and furnish them with proper school furniture, apparatus, and appliances, and to insure any and all such school property.

6. To receive, purchase, lease, and hold in fee, in trust for the city, any and all real estate, and to hold in trust any personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the public schools of the city; provided, that no real estate shall be bought, sold, or exchanged, or expenditures incurred for the construction of new school-houses without the consent of four members of the board of education and four members of the city council; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to the purchase of other lots, or the erection of school-houses; and the city council of the city is hereby authorized and required to make over to said board of education, upon application in writing by said board, through its president and secretary, by good and sufficient deeds of conveyance, all property, both real and personal, now held by said city council in trust for the city for the use and benefit of the

public schools; and the said board is hereby authorized to defray all expenses attending the same.

7. To grade, fence, and improve all school lots, and in front thereof to grade, sewer, plank, or pave and repair streets, and to construct and repair sidewalks.

8. To sue for any and all lots, land and property belonging to or claimed by the said school department, and to prosecute and defend all actions at law or in equity necessary to recover and maintain the full enjoyment and possession of said lots, lands, and property.

9. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in reference thereto; and in pursuance of this provision the board shall, on or before the first Monday in February of each year, submit in writing to the city council a careful estimate of the whole amount of money to be received from the state and county, and the amount required from the city for the above purposes, and the amount so found to be required from the city shall, by the city council, be added to the other amounts to be assessed and collected for city purposes; provided, that the amount to be thus assessed for school purposes shall not exceed thirty cents on each one hundred dollars valuation upon the assessment roll, but may be increased to forty cents by consent of two thirds of the city council, and that when collected it shall be immediately paid into the school fund, to be drawn out only upon the order of the board of education.

10. To establish regulations for the just and equal disbursement of all moneys belonging to the public school fund.

11. To examine and allow, in whole and in part, every demand payable out of the school fund, or to reject any such demands for good cause.

12. To discharge all legal encumbrances now existing, or which may hereafter exist, upon any school property.

13. To prohibit any child under six years of age from attending the public schools.

14. And generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board, and to increase the efficiency of the public schools in said city.

§ 413. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury payable out of the school fund, or other matters relating to his official duties.

§ 414. All contracts for building shall be given to the lowest bidder therefor offering adequate security, to be determined by the board, after due public notice published for not less than ten days in one daily paper of the city.

§ 415. No school director or superintendent shall be interested in any contract pertaining in any manner to the school department of said city. All contracts in violation of this section are declared void, and any director or superintendent violating or aiding in violating the provisions of this section shall be deemed guilty of misdemeanor, and shall be punished by fine of not less than one hundred dollars nor more than one thousand dollars.

§ 416. No teacher shall be employed in any of the public schools without having a certificate issued under the provisions of this chapter. For the purpose of granting the certificates required, the board of education shall appoint a

city board of examination. The city board of examination shall consist of the school superintendent and four other persons, residents of such city, at least two of whom shall be experienced teachers. The members of the city board of examination shall receive for their services such compensation as may be fixed by the board of education. Such city board of examination shall have power:

1. To adopt rules and regulations not inconsistent with the laws of this state for its own government, and for the examination of teachers.

2. To examine applicants, and to prescribe a standard of proficiency which will entitle the person examined to a certificate.

3. To grant city certificates of three grades:

1. High school certificates, valid for six years, and authorizing the holder to teach any primary, grammar, or high school in such city;

2. City certificates, first grade, valid for four years, and authorizing the holder to teach any primary or grammar school in such city;

3. City certificates, second grade, valid for two years, and authorizing the holder to teach any primary school in such city;

4. Without examination, to grant city certificates and fix the grade thereof to the holders of state life diplomas, state educational diplomas, state normal school diplomas, state university diplomas (when recommended by the faculty of the university), state certificates, city certificates granted in other cities of this state, and life diplomas, and state normal school diplomas of other states;

5. To revoke or suspend for immoral or unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, any certificate granted by them.

§ 417. The school superintendent shall act as secretary and bookkeeper of the board of education, and perform all clerical duties required by such board. In the absence of the superintendent, the board of education may appoint one of their own number to act as secretary. The school superintendent may appoint an assistant at a salary of one hundred dollars per month. The superintendent may, for a good and sufficient cause, provisionally suspend any teacher employed in the schools of such city until the next meeting of the board of education.

§ 418. The superintendent shall report to the board of education annually, and at such other times as they may require, all matters pertaining to the expenditures, income and condition and progress of the public schools of said city during the preceding year, with such recommendations as he may deem proper.

§ 419. It shall be the duty of the superintendent to visit and examine each school at least once a month, to observe, and cause to be observed, such general rules for the regulation and government and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board of education; to attend the sessions of the board, and inform them at each session of the condition of the public schools, school-houses, school fund, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in the city. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in said city, and the judicial decisions thereon, and give advice on subjects connected with the public schools, gratuitously, to officers, teachers, pupils, and their parents and guardians.

§ 420. In case of vacancy in the office of superintendent, the board of education shall have power to fill the vacancy until the next ensuing municipal election.

§ 421. The school fund of the city shall consist of all moneys received from the state school fund; of all moneys arising from taxes which shall be levied annually by the city council of the city for school purposes; of all moneys arising from the sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said school fund; which fund shall be kept separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. If, at the end of any fiscal year, any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or withdrawn from said fund, except under the provisions of this chapter.

§ 422. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

1. For the payment of the salaries or wages of teachers, janitors, school census marshals, and other persons who may be employed by said board;
2. For the erection, alteration, repairs, rent, and furnishing of school-houses;
3. For the purchase money or rent of any real or personal property purchased or leased by said board;
4. For the insurance of all property;
5. For the discharge of all legal encumbrances on any school property;
6. For lighting school-rooms and the offices and rooms of the superintendent and board of education;
7. For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children;
8. For supplying books, printing and stationery for the use of the superintendent and board of education, and for the incidental expenses of the board and department;
9. For the payment of the salary of the superintendent and assistant superintendent;
10. For grading and improving all school lots, and for grading, sewerage, planking, or paving and repairing streets, and constructing and repairing sidewalks in front thereof.

§ 423. All claims payable out of the school fund shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members-elect of said board, upon a call of the ayes and noes, which shall be recorded, they shall be signed by the president of the board and by the superintendent, and be sent to the city treasurer. Every demand shall have indorsed upon it a certificate of its approval. All demands for salaries shall be paid monthly.

§ 424. All demands authorized by this article shall be paid by the city treasurer from the school fund, when the same shall be presented to him, ordered paid, and approved by the board: provided, that the said board shall not have power to contract any debt or liabilities, in any form whatsoever, against the said city, in contravention of this article, or exceeding in any year the income and revenue provided for the school fund for such year.

§ 425. It shall be the duty of the auditor of the county in which any such city may be situated, upon the first Monday in each month, and at such other times as he may deem proper, to certify in duplicate to the superintendent of schools of such county, the amount of school moneys at that time in the county treasury, and the amount received during the previous month. The county superintendent shall, upon receipt of such certificates, indorse upon one of them the amount of such moneys to which the common schools in such city are entitled. The certificate so indorsed shall at once be returned to said auditor, who shall direct upon the same the county treasurer to pay the sum designated upon such certificate to the treasury of such city for the use of the school fund thereof.

§ 426. The treasurer of such county shall thereupon pay to the treasurer of such city the sum directed by the auditor as above provided; and when said moneys are placed in such city school fund, they shall be used in precisely the same manner as moneys raised by city school taxes in such city; provided, that the entire revenue derived by such city from the state school fund, and the state school tax, shall be applied by said board of education exclusively to the support of primary and grammar schools.

CHAPTER IV.

MUNICIPAL CORPORATIONS OF THE THIRD CLASS.

(A charter for cities having a population of more than fifteen thousand and not exceeding thirty thousand.)

ARTICLE I.—GENERAL POWERS.

§ 500. Every municipal corporation of the third class shall be entitled the city of —— (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

ARTICLE II.—GENERAL PROVISIONS RELATING TO OFFICERS.

§ 501. The government of such city shall be vested in a mayor; a common council, to consist of seven aldermen; a board of education, to consist of seven school directors; a police judge; an assessor; a clerk, who shall be ex officio auditor; a treasurer; a superintendent of streets; a tax and license collector; a water-rate collector; a city attorney, and such other and inferior officers as the common council may appoint.

§ 502. The aldermen, mayor, police, judge, city attorney, and assessor shall be elected by the qualified electors of such city, at a general municipal election to be held therein on the second Tuesday in March, in each even-numbered year. The mayor, police judge, city attorney, and assessor shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The members of the common council and board of education shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that the first common council elected under the provisions of this chapter shall,

at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years; and provided further, that the first board of education elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lots as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years.

§ 503. All other officers, except as otherwise in this chapter provided, shall be appointed by the common council, upon the nomination of the mayor, and shall hold office for the period of two years from and after the date of such appointment, and until their successors are appointed, elected, and qualified.

§ 504. The common council shall, by ordinance, determine what officers shall give bonds for the faithful performance of their duties, and fix the amount of such bond; and each of such officers shall, before entering upon the duties of his office, execute a bond to such city in such penal sum as the common council by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter *ex officio* incumbent. Such bond shall be approved by the common council. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, if any, which shall be filed with the mayor. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

§ 505. Any vacancy occurring in any of the offices provided for in this chapter, except in the office of school director, shall be filled by appointment by the common council upon the nomination of the mayor, but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term.

§ 506. The aldermen and school directors shall receive no compensation whatever. The annual salaries of other officers shall be as follows: Mayor, one thousand two hundred dollars; police judge, one thousand eight hundred dollars; assessor, one thousand eight hundred dollars; city attorney, one thousand five hundred dollars; street superintendent, one thousand two hundred dollars; clerk and auditor, one thousand five hundred dollars; tax and license collector, one thousand two hundred dollars; treasurer, one thousand dollars; water-rate collector, one thousand two hundred dollars; school superintendent, one thousand five hundred dollars; all of which salaries shall be paid monthly.

§ 507. All elections in such city shall be held in accordance with the general election law of the state, so far as the same may be made applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The common council shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish and change election precincts and polling places; provided, that no part of any ward less than the whole thereof shall be attached to any other

ward, or part thereof, in forming election precincts. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

§ 508. No person shall be eligible to or hold any office in such city, whether filled by election or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment; provided, however, that the provisions of this section shall not apply to school superintendents or school teachers. One alderman and one school director shall be elected from each ward, and the person so elected must be a resident of the ward from which he is so elected, and continue to be such resident during his term of office, and if he shall fail to so continue a resident of such ward, his office shall, by reason thereof, immediately become vacant.

§ 509. The trustees of any free public library created or existing in such city under the provisions of an act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be appointed by the council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said act to the contrary notwithstanding.

ARTICLE III.—LEGISLATIVE DEPARTMENT.

§ 520. The common council shall meet on the Monday next succeeding the date of said general municipal election, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor, or by three aldermen, by written notice delivered to each member at least three hours before the time specified for the proposed meeting. All meetings of the common council shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

§ 521. At any meeting of the common council, a majority of the aldermen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council, and in case of his absence, the council may appoint a president pro tempore; and in case of the absence of the clerk, the mayor or president pro tempore shall appoint one of the members of the council clerk pro tempore.

§ 522. The common council shall judge of the qualifications of its members, and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and, at the desire of any member, shall cause the ayes and noes to be taken on any question, and entered on the journal.

§ 523. No ordinance, and no resolution or order for the payment of money, for granting any franchise, for lighting or watering streets, or for supplying water for municipal purposes, shall be passed by the common council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting; and no ordinance, and no such resolution or order, shall have any validity or effect unless passed by the votes of at least four aldermen and approved by the mayor; provided, that if the mayor shall neglect or refuse to approve the same within five days, then the same may be passed by the votes of five aldermen, and shall then take effect as if approved by the mayor.

§ 524. The common council of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have power to sell or convey any portion of any water front.

3. To acquire, construct, repair, and manage pumps, aqueducts, reservoirs, and other works necessary or proper for supplying the city with water.

4. To establish, lay out, alter, open, keep open, improve, and repair streets, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally manage and control all such highways and places.

5. To construct and maintain drains and sewers.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fire, and to construct and maintain telegraph and telephone lines for fire and police purposes.

7. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years an annual street poll-tax not exceeding two dollars; and no other road poll-tax shall be collected within the limits of such city.

8. To impose and collect an annual tax, not exceeding two dollars, on every dog owned or harbored within the limits of the city; and no other dog tax shall be collected within the limits of such city.

9. To levy and collect annually a property tax, not exceeding one dollar on each one hundred dollars of the assessed value of all real and personal property within such city, which said tax shall be apportioned as follows: For the general fund, not exceeding fifty cents on each one hundred dollars; for the road fund, not exceeding twenty-five cents on each one hundred dollars, and for the school fund, not exceeding twenty-five cents on each one hundred dollars; each of which funds shall be kept separate from all others.

10. To license, for purposes of regulation and revenue, all and every kind of business authorized by law, and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the water front of the city; to construct and maintain embankments and other works to protect such city from overflow; and to bridge any creek or river so as not to interfere with navigation.

12. To erect and maintain buildings for municipal purposes.

13. To permit, under restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other motive power thereon, and the laying of gas and water pipes in the public streets, and the construction and maintenance of telegraph and telephone lines therein.

14. To divide the city, by ordinance, into seven wards as nearly equal in population as may be, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered.

15. To establish and regulate a fire department and a police department, to appoint and remove the officers and employees thereof, and to prescribe their duties and fix and order paid their salaries and compensation.

16. To appoint and remove such subordinate officers as they may deem proper, and to fix their duties and compensation.

17. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five hundred dollars, nor the term of such imprisonment exceed six months.

18. To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city.

19. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

§ 525. The enacting clause of all ordinances shall be as follows: "The mayor and common council of the city of — do ordain as follows." Every ordinance shall be signed by the mayor, attested by the clerk, and published at least five times in a newspaper published in such city.

§ 526. All demands against such city, except for school purposes, shall be presented to and audited by the common council, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the mayor shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

§ 527. The common council shall not create, audit, allow, or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; provided, that any city, during the first year of its existence under this act, may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it for such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as herein-after provided.

§ 528. If, at any time, the common council shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least three weeks in some newspaper published in such city; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the common council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in each ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the common council in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

§ 529. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city in the name of the people of the state of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail; or, if the common council by ordinance shall so prescribe, in the county jail of the county in which such city may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such city.

§ 530. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

§ 531. The common council are authorized and empowered to provide, by ordinance, a system for doing any or all work in or upon the streets, highways, and public places of such city, and for making therein street improvements and repairs, and for doing any or all work authorized by subdivisions four and five of section five hundred and twenty-four of this act, and for the payment of the cost and expenses thereof, either by the levy and collection of special assessments therefor, in proportion to benefits, upon the property to be benefited thereby, or by payments made out of the road fund of such city, or by both; provided, that in all cases where more than one half of the expense of any such improve-

ment, except the construction of a sewer or drain, exceeding in amount the sum of one thousand dollars, is to be defrayed by special assessment, the common council shall first adopt a resolution, which shall be entered upon their journal, declaring their intention to make such improvement, and fixing a time at which objections to the making of such improvement will be considered. Such resolution shall also designate the boundaries of the district to be affected or benefited by such improvement. Upon adopting such resolution, the common council shall give notice of such intention, which notice shall be published for twenty days in a newspaper printed and published in such city. Such notice shall describe the improvement so proposed to be made, and state the estimated cost thereof, and designate the time set for such hearing, and shall refer to such resolution so entered upon the journal for such description of boundaries. If, at or before the time so fixed, written objections to such improvements, signed by the owners of two thirds in value of the property so to be affected or benefited, as shown by the last preceding city assessment roll, be not filed with the clerk, the common council shall be deemed to have acquired jurisdiction to order the making of such improvement. Any such special assessment made and levied to defray the cost and expenses of any such work, together with any percentage imposed for delinquency and the costs of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien; provided, that any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for taxes.

§ 532. The common council are authorized and empowered to provide by ordinance for the establishing, laying out, extending, and widening streets and other public highways and places within the city, and for taking private property therefor, and for taking private property for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening and straightening the channels of streams, and the improvement of water fronts; but no private property or right of way over or through the same shall be taken without the consent of the owner thereof until a just compensation for the same shall be ascertained and paid to such owner, or into court for his use. If the owner of any parcel of land proposed to be taken for any such improvement shall be dissatisfied with the amount of compensation awarded by said council for the taking of such parcel, he may, within twenty days after the date of such award, commence an action against such city in any court of competent jurisdiction within the city, township, or county, to recover such amount of compensation as he may consider himself entitled to. The amount of compensation ascertained and awarded in such action shall be deemed and taken to be the amount of compensation to which such person will be entitled if such improvement be made. If such person fail to recover in such action a greater amount of compensation than was so awarded by said council, he shall not recover costs but shall pay costs to such city. Any owner of or person interested

in any such parcel of land, who shall fail to commence such action within the time herein limited, shall be deemed to have waived his right in that behalf, and to have assented to and ratified the award of said council. The common council shall not acquire jurisdiction to exercise any of the powers hereinbefore in this section enumerated, until a petition in writing therefor is first presented to said council, signed by at least twenty inhabitants of said city, taxable therein for municipal purposes. Such petition must describe generally the street, highway, or public place proposed to be laid out or established, or the proposed alteration by widening or extending the same, or by widening or straightening the channels of streams, or by the improvement of water fronts; or if a right of way is sought for drains, sewers, or aqueducts, such petition shall describe the proposed route for the same. Such petition shall be heard at a regular meeting of the council, notice of such hearing being given by the clerk by publication in a newspaper published in such city, for a period of three weeks before such hearing. Such notice shall be deemed to give said council full jurisdiction over the subject-matter, and over the person of every owner of or person interested in any parcel of land to be taken or assessed for any such improvement; and every person interested, from and after the expiration of such publication, shall be deemed to have notice of all subsequent proceedings; provided, that nothing herein contained shall be construed to prevent such council from giving such other or further notice as they may deem proper. At the time fixed in such notice, or at such time to which such hearing may be postponed, the council shall proceed to hear and determine the prayer of such petition pursuant to such rules and regulations as may be prescribed by such ordinance. Such system, so established by ordinance, may provide for the payment of such compensation, either by the levy and collection of special assessments therefor, in proportion to benefits upon the property to be affected or benefited by any such improvement, or by payments made out of the street fund, or river and water front improvement fund of such city, or by both. Any such special assessment made and levied to provide means for the payment of any such compensation and the cost of ascertaining the same, together with any percentage imposed for delinquency and the costs of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien; provided, that any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided or that may hereafter be provided by law for the redemption of property sold for taxes.

§ 533. The common council shall have power, and it shall be their duty, to provide by ordinance for the assessment, levy, and collection of all city taxes, which shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this state in reference to the assessment, levy, and collection of state and county taxes, except as to the times for such assessment, levy, and collection, and except as to the officers by whom such duties are to be performed. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property

assessed from and after the first Monday in March in each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by actions in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided or that may hereafter be provided by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes.

§ 534. No money shall be expended or drawn out of the street fund for any but street and sewer purposes, and no money shall be expended or drawn out of the school fund for any but school purposes. Whenever any city organizing under this act has a bonded indebtedness contracted or issued under any law of this state, all the provisions of such laws in regard to the levying, collection, and disposition of taxes and revenues for the payment of such indebtedness and the interest thereon, shall continue in force, and the taxes levied and revenues raised for the payment of the interest and principal of such indebtedness shall be in addition to the taxes provided by section five hundred and twenty-four of this act, and the common council of said city, organizing under this act, is hereby authorized and empowered to levy and collect such taxes and apportion such revenues for the payment of such indebtedness and interest, in addition to the limit of taxation hereinbefore prescribed in this act; and nothing in this chapter shall be construed to prevent any city from levying and collecting the tax authorized by the act entitled, "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, and from fines, penalties and forfeitures, shall be paid into the general fund.

§ 535. The common council may also levy and cause to be collected, in each year, in addition to the taxes herein authorized to be levied and collected, a tax, not exceeding twenty cents on each one hundred dollars of the assessed value of all real and personal property within such city subject to taxation, the proceeds of which tax shall be known as the "River and Water Front Improvement Fund," and shall be applied to the improvement of streams, bays, and water fronts, the erection of embankments, and other works to protect the city from overflow, and the construction of works of drainage, and for no other purposes whatever.

§ 536. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water fronts, or in or about embankments or other works for protection against overflow, or in furnishing any supplies or materials for the same, when the expenditures required for the same exceeds the sum of five hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after due notice, under such regulations as may be prescribed by ordinance; provided, that the common council, or board of education, may reject all bids presented, and readvertise, in their discretion; and provided further,

that in case of any great and unforeseen calamity or emergency the common council, by a resolution unanimously adopted and approved by the mayor, may dispense with the foregoing provisions of this section, the reason for such action being entered on their minutes. The common council shall, annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice as provided in this section. All advertising shall be done in a newspaper printed and published in such city, and the contract therefor shall be awarded separately from all other printing.

ARTICLE IV.—EXECUTIVE DEPARTMENT.

§ 550. The mayor shall be at the head of the executive department of the city. It shall be his duty to be vigilant and active in causing the laws and ordinances of the city to be duly executed and enforced; to have the general supervision of the police department; to receive and examine into all complaints preferred against any officer, and to certify the same to the common council; to administer and certify oaths and affirmations in any and all matters and proceedings pertaining to the city; to preside at all meetings of the common council; and to perform such other duties as are or may be prescribed by law or ordinance.

§ 551. It shall be the duty of the clerk to keep a true and correct record of all the proceedings of the common council, and to countersign all warrants; to keep accounts current with every officer charged with the receipt or disbursement of money; to keep the seal of the city and affix the same to all instruments requiring such seal; to perform the duties required of him by the next section; to report to the common council on the first Monday of each and every month a full and detailed statement of the receipts and disbursements of the treasury during the preceding month, and the state of each particular fund, which statement shall be verified by his oath; to administer and certify oaths and affirmations; to perform such duties in and about the assessment, levy, and collection of taxes and assessments as may be prescribed by law or ordinance; to appoint deputies; and to perform such other and further duties as the common council may by ordinance prescribe.

§ 552. It shall be the duty of the treasurer to receive, upon the order of the clerk, all moneys due or belonging to the city, for which he shall give his receipt, which receipt shall be filed with the clerk by the person making such payment, and the clerk shall give to such persons his receipt therefor, which receipt shall be the only evidence of payment. He shall pay all warrants drawn by authority of and in accordance with law. He shall perform such duties in the collection of taxes or assessments as are or may be prescribed by law or ordinance. He shall, on the first Monday of each and every month, present to the common council a full and detailed statement of the amount of money belonging to the city received by him, and by him disbursed during the preceding month, and the state of each particular fund, which statement shall be verified by his oath. He may appoint deputies by and with the consent of the common council, and shall perform such other duties as are or may be prescribed by law or ordinance.

§ 553. The common council shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the duties of all officers, and fix their compensation.

ARTICLE V.—JUDICIAL DEPARTMENT.

§ 560. The judicial power of the city shall be vested in a police court, to be held by the police judge of such city. Said police court shall have jurisdiction, concurrently with the justices' courts, of all criminal action and proceedings arising within the corporate limits of such city, and which might be tried in such justices' courts; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, of all actions founded upon any obligation or liability created by any ordinance, and of all prosecutions for any violation of any ordinance. The rules of practice and mode of proceeding in said police court shall be the same as are or may be prescribed by law for justices' courts in like cases; and appeals may be taken to the superior court of the county in which such city may be situated from all judgments of said police court, in like manner and with like effect as in cases of appeals from justices' courts. Said court shall be a court of record.

§ 561. The police judge shall be judge of the police court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments.

§ 562. In all cases in which the police judge is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of his sickness or inability to act, the mayor may call in a justice of the peace residing in the city to act in the place and stead of the police judge; or if there be no justice of the peace residing in the city, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city may be situated.

§ 563. The common council shall appoint, upon the nomination of the mayor, a clerk for said police court. Said clerk shall keep the records of said court and the seal thereof, and perform such other duties as may be required of him by law or ordinance. He shall receive a salary of one hundred dollars per month. The council shall also provide a seal for said police court.

ARTICLE VI.—SCHOOL DEPARTMENT.

§ 570. From and after the organization of each of such cities, the same shall constitute a separate school district, which shall be governed by the board of education of such city.

§ 571. In case a vacancy shall occur in the office of school director, the board of education shall choose a person to fill such vacancy, who shall serve until the next election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term.

§ 572. The board of education shall meet on the second Tuesday after such general municipal election and choose one of its members as president, and another as vice-president. Its regular meetings shall thereafter be held as often as twice in each month, and the time and place for holding such meetings shall be fixed by a rule of said board. Special meetings of said board may be held when called by written notice, signed by its president, or three of its members, and delivered personally to each of its members who shall not have signed the same. Four members shall constitute a quorum, and no business shall be trans-

acted by said board of education without the concurrence of four of its members; but a majority of the members present at any meeting may adjourn from time to time. All meetings of said board of education shall be public, and full records of its proceedings shall be kept by the school superintendent, who shall be ex officio clerk of said board of education.

§ 573. The board of education shall have power:

1. To establish and maintain public schools, and to subdivide the school districts, and to fix and alter the boundaries of such subdivisions.
2. To appoint a school superintendent, who shall hold office during their pleasure, and to prescribe his duties, and fix his compensation.
3. To employ and dismiss teachers, janitors, truant officers, and school census marshals, and to fix, alter, allow, and order paid their salaries or compensation; and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers hereby conferred.
4. To make, establish, and enforce all necessary or proper rules and regulations, not in conflict with the laws of this state, for the government and management of public schools within such city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education.
5. To provide for the school department of such city fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.
6. To build, alter, repair, rent, and provide school-houses, and to furnish the same with proper school furniture, apparatus, and appliances, and to insure any and all school property.
7. To purchase, receive, lease, and hold in fee, in trust for such city, any and all real estate and personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the schools of such city; provided, that no real estate shall be bought, sold, or exchanged, nor any expenditure incurred for the construction of new school-houses, without the approval of the common council; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to school purposes.
8. To grade, fence, and improve all school lots.
9. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in reference thereto; and in pursuance of this provision, the board of education shall, at least ten days before the meeting of the common council at which the annual city taxes are levied, submit in writing to the common council a careful estimate of the whole amount of money to be received from the state and county, and of the amount to be required from such city for the above-mentioned purpose; and the amount so found to be required from the city shall, by the common council, be added to the other amounts to be assessed and collected for city purposes, and when collected, the proceeds thereof shall be immediately paid into the school fund of such city, to be drawn out only upon the order of the board of education; provided, that such annual tax shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of the real and personal property within such city.
10. To establish regulations for the just and equal disbursement of all moneys belonging to the school fund.

11. To discharge all legal encumbrances existing at the time of the incorporation of such city, or thereafter, on any school property within such city.

12. To admit non-resident children, and persons over twenty-one years of age, to any of the departments of the schools of such city, upon the payment, monthly, in advance, to the treasurer of such city, for the school fund, of such tuition fee as said board may establish.

13. To prohibit any children under six years of age from attending the public schools.

14. To establish and regulate the grades of schools in such city, and the course of study, and the mode of instruction to be pursued therein, and to determine what text-books shall be used.

15. To do and perform, in addition to the foregoing powers, such other acts as may be necessary or proper to carry into effect the powers hereby conferred.

§ 574. The board of education may sue and be sued by their name of office. In any action or judicial proceeding against said board, service of process upon the president, or upon a majority of the members of the board, shall be sufficient to give the court jurisdiction to hear and determine the same.

§ 575. All moneys received by the treasurer of the county wherein such city may be situated, on account of the school fund of such city, or the school district consisting of the same, and all sums received into the county treasury, which may be apportioned to said city or district, shall be paid to the treasurer of such city by the treasurer of such county, as soon as received, or as soon as the apportionment shall be made, when apportionment is necessary.

§ 576. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the board of education, and to witnesses examined in any investigation had by such board of education, or by a committee thereof, duly appointed by it for that purpose.

§ 577. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of education, or committee thereof, who shall be entitled to the same fees as witnesses in civil cases, and who may be punished for contempt for non-attendance, or refusal to be sworn, or to answer, by the superior court of the county in which such city may be situated.

§ 578. Every claim payable out of the school fund shall be filed with the clerk of the board of education, and after it shall have been approved by the board, a certificate of such approval shall be indorsed thereon, signed by the president and clerk; and a warrant upon the school fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the president of such board, and countersigned by the clerk, and shall specify for what purpose the same is drawn.

§ 579. The entire revenue derived by such city from the state school fund and the state school tax shall be applied by said board of education exclusively to the support of primary and grammar schools.

ARTICLE VII.—MISCELLANEOUS PROVISIONS.

§ 590. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in

each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

§ 591. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any wilful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

CHAPTER V.

MUNICIPAL CORPORATIONS OF THE FOURTH CLASS.

(Charter for cities having a population of more than ten thousand and not exceeding fifteen thousand.)

ARTICLE I.—GENERAL POWERS.

§ 600. Every municipal corporation of the fourth class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever, and shall have and use a common seal, and the same alter at pleasure; may purchase, receive, have, take, hold, lease, use, and enjoy property of every name or description, and control and dispose of the same for the common benefit.

ARTICLE II.—GENERAL PROVISIONS RELATING TO OFFICERS.

§ 601. The officers of such city shall consist of a major, twelve councilmen, a collector, who shall also be street commissioner, an assessor, treasurer, city clerk, police judge, city attorney, chief of police, superintendent of public schools, and two school trustees for each ward; and whenever a free public library and reading-room is established therein, five trustees thereof; and the council may also provide for the election, by the voters of said city, or by said council, of a superintendent of irrigation. The city council may also elect a city surveyor, harbor-master, poundkeeper, and city jailer, and whenever a paid fire department shall be established in such city, a chief engineer, and one or more assistant engineers, and any other officer necessary to carry out the provisions of this chapter, and for whose election or appointment no provision is made, and may by ordinance prescribe the duties of all city officers, and fix their compensation, subject to the limitations herein contained.

§ 602. On the first Tuesday after the first Monday of November of each odd-numbered year a municipal election shall be held, at which the qualified voters of such city shall elect one school trustee for each ward, and six councilmen, to be voted for by the wards they may respectively represent, and each to hold office for the term of four years, and until the qualification of his successor; and also a mayor, an assessor, a collector and street commissioner, city attorney, police judge, chief of police, and superintendent of public schools, who shall each hold office for two years, and until the qualification of a successor; provided, that at the first election held after the organization of such city under this act such city shall elect two school trustees for each ward, and twelve councilmen, who shall, at the first meeting of the city council

and board of education, respectively, decide by lot their terms of office; six of said councilmen and one half of the number of school trustees to hold for the term of four years, and the others for the term of two years, and in each case until the qualification of their successors.

§ 603. The city council shall call all city elections, designate the time and place of holding the same, giving at least ten days' notice thereof, and shall appoint one inspector or clerk, and two judges of election, for each ward or election precinct in such city, who shall appoint two clerks, and all shall take the oath of office prescribed by law for inspectors, judges, and clerks of state and county elections. All provisions of law regulating elections for state and county officers, not conflicting herewith, shall apply to elections under this chapter. The polls for all city elections shall be open at eight o'clock a. m., and continue open until five o'clock p. m., the same day. If any officer so appointed shall fail to attend, those attending, with the electors assembled, shall fill their places by others from the qualified electors present. All returns of city elections shall be made out and signed by the officers of such election in the usual form, and deposited with the city clerk within two days after the election. The persons having the plurality of the votes cast for each of the respective offices voted for shall be declared elected. No person shall vote at any city election unless he shall be an elector for state and county officers, and shall have actually resided within such city, and in the precinct where he may offer to vote, thirty days preceding such election; provided, that any elector who may remove from one precinct to another within thirty days prior to such election may, if a qualified voter therein at the time of removal, vote in the precinct from which he may have moved. If any person not having the legal qualifications of an elector at any city election shall fraudulently vote, or attempt to vote, or knowingly hand in two or more ballots folded together, or shall vote, or attempt to vote, more than once at the same election, such person or persons, on conviction thereof, shall be fined in any sum not less than twenty nor more than five hundred dollars, or be imprisoned in the county jail for any period not more than three months, or may be punished by both such fine and imprisonment.

§ 604. On the Monday following the election, the city council shall convene and publicly canvass the result, and shall issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the city council shall thereafter, at its first regular meeting, decide by vote between the parties which shall be elected. If the city council from any cause fail to meet on the day named, the mayor shall call a special meeting of said council within five days thereafter, and in addition to the notice provided for calling special meetings, shall publish the same on two successive days in some newspaper published in such city. If the mayor fail to call said meeting within said five days, any four councilmen may call it. At such special meeting all elections, appointments, or other business may be transacted that could have been on the day first herein named.

§ 605. Each officer of such city shall take the oath of office, and such as may be required to give bond, file the same, duly approved, within ten days after receiving notice of his election or appointment, or if no notice be received,

then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed; but if any one, either elected or appointed to office, fail for ten days to qualify as required by law or to enter upon his duties at the time fixed by law or the orders of the city council, then such office shall become vacant; or if any such officer shall absent himself from such city continuously for ten days without the consent of the city council, or shall openly neglect or refuse to discharge his duties, such office may be by the city council declared vacant; provided, that the penalty for absence from the city shall not apply to such officers as serve without salary or other compensation. Such officers as are elected by the voters of the city shall enter upon their duties on the first Monday of January next succeeding the date of their election; such officers as are appointed or elected by the city council shall enter upon their duties within ten days after receiving notice of their appointment or election.

§ 606. When any vacancy occurs in any elective office, except the mayor, the city council may fill the same for the unexpired term, except in case of city councilmen, or school trustees, which shall be filled until the next city election, and until the qualification of a successor. The city council may, upon written charges to be entered upon their journal, after notice to the party, and after trial, by a vote of two thirds of all the members-elect, remove any officer.

§ 607. It shall be the duty of the city council to provide for the accountability of the city assessor, treasurer, clerk, police judge, collector, and street commissioner, city attorney, and all other officers herein provided for, by requiring from them sufficient security for the faithful performance of their duties or trusts, which security shall be given by them before entering on their respective duties. If such security should be or become insufficient, additional security may be required, and if not given within ten days, the council, by a vote of two thirds of the members, may declare the office vacant, and may thereafter fill the same.

§ 608. The mayor, councilmen, and school trustees shall not receive any salary or compensation for their services; provided, that members of the city council, or a committee thereof for that purpose appointed, may receive for their services, while acting as a board of equalization, a sum to be determined by the council, not to exceed for each one five dollars per day, for each day while actually so engaged, for two weeks in each year, and no longer.

§ 609. The collector and street commissioner shall receive a salary, to be fixed by the city council, which shall not exceed the sum of fifteen hundred dollars per annum.

§ 610. The city council shall have no power to allow any extra or additional compensation to that in this chapter expressly authorized to any officer for the rendition of services that the city council have power to require the officer to perform by virtue of his office.

§ 611. In case any such city shall, at the time of its organization under this act, be divided into wards, such divisions shall continue, but the city council may, at any time not within three months previous to an annual city election, change the boundaries of such wards, or divide it into others, not exceeding

six in number; provided, that such change shall not affect the term of office of any councilman or school trustee, but they shall serve out their term for the ward in which their residence may be; but if more reside within any one ward than the proportion to which it is entitled, those of the shortest unexpired term shall, by the council, be assigned for such unexpired term to a ward where there is a vacancy. The representation of each ward in the city council shall be as near as may be in proportion to its population, but each ward shall have two school trustees.

ARTICLE III.—LEGISLATIVE DEPARTMENT.

§ 620. The mayor and councilmen of the several wards shall constitute the city council, and at its first meeting in January next after a city election shall elect a city clerk, city treasurer, and one of their own body as president of the city council, and at any time when the mayor and president are both absent, may elect a president pro tempore, who shall act during such absence. They shall also, at such time, designate the number of policemen for such city, to be elected as hereinafter provided.

§ 621. A majority of the councilmen-elect shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, and they may compel the attendance of absent members. The council may punish their members for disorderly conduct, and upon written charges to be entered on their journal, for such conduct, after trial, may expel a member by a vote of two thirds of all the members elected. The mayor shall have a vote only in case of a tie in the votes of the other members. They shall determine their rules of proceeding and the qualification of members. The sittings of the council shall be open to the public, except where the interests of the city shall require secrecy. A journal of all their proceedings shall be kept by the clerk under their direction. At any time, at the request of any two members, the ayes and noes on any question shall be taken and entered upon the journal.

§ 622. The city council shall have power and authority to make and pass all by-laws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of California, or the provisions of this charter, necessary for the municipal government and the management of the affairs of the city, for the execution of the powers vested in said body corporate, and for carrying into effect the provisions of this chapter; to fix and collect a license tax on and to regulate theaters, melodeons, balls, concerts, dances, and all theatrical, melodeon, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, bowling alleys, exhibitions, or amusements; to fix and collect a license tax on and to regulate all taverns, hotels, restaurants, saloons, bar-rooms, banks, brokers, manufactories, livery-stable keepers, express companies, and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who shall have an agency therein; to license and regulate auctioneers; to license, regulate, tax, prohibit, or suppress all tippling-houses, dram-shops, saloons, bars, bar-rooms, raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths, or sheds; to prohibit or

suppress, or to license and regulate, all dance-houses, fandango-houses, cock-fights, dog-fights, or any exhibition or show of any animal or animals; to license and tax hackney-coaches, cabs, omnibuses, drays, market-wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property; and to license or suppress runners for steamboats, railroads, taverns, or hotels; and to fix and collect a license tax upon all occupations and trades, and all and every kind of business authorized by law, not heretofore specified; and provided, that in the business of selling intoxicating drinks, wines, ales, and beers, in less quantities than one quart, or to be drank on the premises where sold, and on any other business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require; also to prevent and restrain any riot or riotous assemblage, disturbance of the peace, or disorderly conduct, in any place, house, or street in the city; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing, or maintaining the same; to establish, maintain, and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected for the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits, or any parts thereof; and to regulate or prevent the keeping of such animals within any part of the city; to control and regulate slaughter-houses, wash-houses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein; to establish, alter, and repair city prisons, and to provide for the regulation of the same, and for the safe-keeping of persons committed thereto; to provide for the care, feeding, and clothing of the city prisoners; to provide for the formation of a chain-gang for persons convicted of crimes or misdemeanors, and their proper employment and compulsory working for the benefit of the city; and also to provide for the arrest and compulsory working of vagrants; to prohibit and suppress all gaming, and all gambling or disorderly houses, and houses of ill-fame, and all immoral and indecent amusements, exhibitions, and shows; to establish and regulate markets and market-places; to fix and regulate the speed at which railroad cars may run within the city limits, or any portion thereof; to provide for and regulate the commons of the city; to regulate and prohibit fast driving or riding in any portion of the city; to regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters; to have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and the same to sell, lease, transfer, mortgage, convey, control, or improve; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city; to establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also to discontinue

and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city; provided, that nothing in this chapter shall be construed to authorize the said city council to disband or discontinue the fire department of any city having, at the time of its organization under this act, a volunteer fire department organized and existing, or to create, establish, and maintain a paid fire department therein, without first submitting the proposition of establishing a paid fire department for such city to the legal voters thereof, at a general city election, for decision, and not after such election, unless thereat a majority of all the votes cast at such election are in favor thereof; and in the event that any time hereafter the volunteer fire department of such city shall be disorganized or disbanded, and a paid fire department established in its stead, then every person who shall have been an active fireman for the space of two years next before the date of such disbanding and establishing shall be entitled to and shall receive an exempt fireman's certificate, and such certificate shall entitle the person to whom it is issued to all benefits and immunities accorded by the laws of this state in regard to exempt firemen; to institute and perfect any and all measures and means for the prevention or extinguishment of fires; to establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of buildings, sheds, awnings, signs, or any structures of a dangerous or unsafe character; to adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigating purposes therein; to prevent the overflow of the city, or to secure its drainage; to provide for the numbering of houses; to establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary, and provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments, and prohibit them within the city limits; to build, alter, improve, keep in repair, and control the water front; to erect, regulate, and repair wharves, and to fix the rate of wharfage and transit wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing of steamboats, sail vessels, rafts, barges, and all other water-craft; to fix the rate of speed at which steamboats and other steam water-craft may run along the water front of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourse; to clear out and excavate sloughs and other watercourses or channels; to license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon; to license ferries and bridges under the law regulating the granting of such license; to determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties, and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed, for any offense, the amount of five hundred dollars, or three months' imprisonment, or both; and every violation of any lawful

order, regulation, or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the people of the state of California; to create and establish a city police; to prescribe their duties and their compensation, and to provide for the regulation and government of the same; to provide for conducting elections and establishing election precincts, when necessary; to examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city; to make all appropriations, contracts or agreements for the use or benefit of the city, and in the city's name; to provide by ordinance for the opening, laying out, altering, constructing, extending, repairing, grading, paving, graveling, macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of either thereof, and for the construction, regulation and repair of sidewalks, and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof; to clear, cleanse, alter, straighten, widen, fill up, or close any waterway, drain, or sewer, or any watercourse in such city, when not declared by law to be navigable; to adopt, provide for, establish, and maintain a general system of sewerage, or drainage, or both, and the regulation thereof, the expense thereof to be borne by general taxation upon the taxable property and inhabitants of and in such city; to provide funds for the purpose aforesaid, and to determine manner, terms, and place of connection with main or central lines of pipes, sewers, or drains established with funds derived from general tax, and compel compliance with and conformity to such general system of sewerage, or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against person and property, or either, for non-conformity to or failure to comply with the provisions of such system and regulations, or either; to provide for all public buildings, public parks, or squares, necessary or proper for the use of the city; to permit the use of the streets for railroad purposes; to order paid any final judgment against such city; but none of its lands, or property of any kind or nature, taxes, revenues, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever; to regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and prescribe his term of office, and the fees he shall receive for his services; provided, that such fees shall, in all cases, be paid by the parties requiring such service.

§ 623. The city council shall not create, audit, allow, nor permit to accrue any debts or liabilities above the actual revenue and available means in the treasury that may be legally apportioned for such purpose, nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there shall be sufficient money in the treasury justly applicable to meet the same.

§ 624. All accounts and demands that shall lawfully arise against the city

shall be submitted to the city council, and if found correct shall be allowed, and an order be made that the demand be paid; upon which (if there be funds in the treasury as in the preceding section provided) the clerk shall draw a warrant, which shall be countersigned by the president of the city council, upon the treasurer, in favor of the owner or owners of the demand, specifying for what purpose and by what authority it is issued, and out of what fund it is to be paid, and the treasurer shall pay the same out of the proper fund. All accounts and demands against such city, other than such as are chargeable to or payable out of the school fund, must be presented to the city council duly itemized, and accompanied with an affidavit of the party, or his agent, stating the same to be a true and legitimate claim against such city for the full amount for which the same is presented, and that the same accrued as set forth, and with all necessary and proper vouchers, within one year from the date the same accrued; and any claim or demand not so presented within the time aforesaid shall be forever barred, and said council shall have no authority to allow any account or demand not so presented in manner and time as aforesaid, nor shall any action be maintained against such city for or on account of any demands or claim against the same until such demand or claim shall have first been presented to the city council for action thereon.

§ 625. The annual expenses of such city shall not exceed the sum of one hundred thousand dollars, except in cities where one per centum on the valuation of the property therein raises more than the sum of one hundred thousand dollars, and in such cities the annual expenses shall not exceed the sum of one per centum of the valuation of the property therein; provided, however, that moneys authorized to be raised and expended for the payment of the funded or bonded indebtedness of such city, and for school purposes in such city, as provided to be raised by the provisions of this charter, shall not be considered a portion of said annual expense. If, at any time after the said sum shall have been expended in any year, it shall appear that the interests of such city demand an expenditure of an additional sum, the city council shall make a report of the same, which shall be published for at least three weeks in some newspaper printed and published in such city, particularly specifying the object or objects for which said expenditure is required, and the amount of money necessary to be raised to complete the same. At any time within ten days after the expiration of said publication, the city council shall order an election, giving ten days' notice thereof, at which time those persons who are legal voters of such city may vote for or against a tax to raise such additional sum. The election shall be conducted and returns made and canvassed in all respects as the general elections of such city, and a majority shall determine if such tax be levied or not. If the vote is in favor of such tax, the city council shall forthwith, by an order to be entered on the journal of their proceedings, order the tax to be levied and collected upon the basis of the last municipal assessment, and shall make the proposed expenditure; provided, that the special tax thus to be levied shall, for no one year, be more than one per centum of the valuation of real and personal property in the city, as shown by the last assessment roll. All special taxes to be levied and collected under the provisions of this section shall be levied and collected in the manner, form, and ways prescribed for the levying and collecting of the general taxes of

such city; and as a security for their payment, a lien shall attach to and against each lot of land for the amount assessed against it from the date of the order; and every person, firm, or corporation against whom a tax be thus assessed shall be personally liable to pay the amount to such city. Said lien shall continue until such taxes are paid, or the property become vested in a purchaser under a sale thereof. [Amendment, Stats. 1889, 371.]

§ 626. Every appropriation or payment of money made or ordered by the city council in excess of said sum stated in section six hundred and twenty-five, unless it shall be authorized by a vote of the electors of such city, as provided for in the preceding section, shall be invalid, illegal, and void, and shall be recoverable by the city from the party or parties to whom the same is made, if knowingly taken or received by such party or parties; and the members of the city council who shall have voted for the same shall be individually, jointly, and severally liable for such excess, and it may be recovered from them in any court of competent jurisdiction by the party or parties with whom they have contracted, or by the city, if payment has been actually made. [Amendment, Stats. 1889, 371.]

§ 627. All the streets in such city that have been or shall hereafter be laid out and dedicated by the party or parties owning the land fronting upon the same, or by the authority of such city, and declared to be public streets, and that have been or shall hereafter be used as such, shall be and are hereby declared public streets to the extent that the same may have been or shall hereafter be used, laid out, or dedicated.

§ 628. All contracts for work to be performed, or materials to be used, ordered by or for such city, or in which it is interested, may be, and when the cost exceeds five hundred dollars shall be, let to the lowest bidder. A notice, signed by the clerk, soliciting sealed proposals, shall be published a reasonable time, in no case less than ten days, prior to the time fixed for opening such bids. Such notice shall designate the work to be done, and the place and the time in which it may be performed, with such other specifications as may tend to give the bidders a knowledge of the object to be accomplished, and with a reference to the diagram or specifications on file in the clerk's office. On the day limited in said notice for the opening of said bids the council, or a committee therefor appointed, shall, in open meeting, open and declare said bids and award the contract to the lowest responsible bidder; provided, however, that the city council, or its committee, may reject all bids when considered too high or uncertain from any circumstances. The council or committee may, before considering any offer, require security that the party will enter into a contract if awarded to him; and all contracts shall be in writing, and accompanied with a bond satisfactory to the mayor. No officer of such city shall be interested in any contract to which the city is a party, and any contract contrary to the provisions hereof shall be void.

§ 629. The city council is authorized and empowered to establish, lay out, alter, open, improve, and repair streets, avenues, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same,

in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees along the lines thereof or therein, and generally to manage and control all such highways and places.

§ 630. The city council shall have the power to provide by ordinance for doing any or all work in or upon the streets, avenues, highways, and public places of such city, and for making therein street improvements and repairs, or for the preservation thereof, and for doing any or all work thereupon or therein authorized by this chapter; and for the payment of the cost and expenses thereof by the levy and collection of special assessments therefor upon the property to be affected or benefited thereby. That is to say, the expense or cost of any work or improvement upon the streets, avenues, or public ways of such city shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited sufficient to cover the total expense of the work to the center of the street on which it fronts. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings or crossways, shall be paid by such city. In all the streets constituting the water front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets from the center line thereof to the said water front, or to such property of the city bounded thereon, shall be provided for by such city, but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinbefore provided. When any work or improvement mentioned in this section is done or made on one side of the center line of said streets, avenues, or public ways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter.

§ 631. The style of the city ordinances shall be as follows: "The mayor and city council of the city of —— do ordain as follows;" and all ordinances shall be published in one or more of the newspapers published in the city.

§ 632. By-laws and ordinances shall be passed by the city council and approved by the mayor, or the president of the city council acting in his stead. But before any by-law or ordinance shall have any binding validity, it shall be published in one or more newspapers published in the city, and recorded in the record-book to be kept by the clerk. The clerk shall certify on the record the fact of publication, and so certified, the record shall be prima facie evidence of the passage thereof, and may be read as evidence of the by-law or ordinance, and its publication. A printed copy of any ordinance or by-law, or a compilation thereof, printed by authority of the city council, and attested by the clerk, shall be evidence thereof in same manner and with like effect.

§ 633. All orders of the city council, to have force and legal validity, shall be entered on the journal of their proceedings, which journal shall be signed by the officer who may preside at such meeting.

§ 634. Upon the passage of all ordinances appropriating money, imposing taxes, abolishing licenses, increasing or lessening the amount to be paid for licenses, the ayes and noes shall be entered upon the journal.

§ 635. A majority of all the members elected shall be necessary to pass any ordinance appropriating for any purpose the sum of five hundred dollars or upwards, or any ordinance imposing any assessment, tax or license, or in anywise increasing or diminishing the city revenue.

§ 636. The trustees of any free public library, created or existing in such city under the provisions of an act entitled "An act to establish the public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be appointed by the city council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said act to the contrary notwithstanding.

ARTICLE IV.—TAXATION.

§ 640. The city council shall have full power and authority to assess, levy, and collect annually taxes upon all the property within the city, taxable for state purposes, not exceeding one per centum upon the assessed value thereof, which shall be paid into the general fund for current expenses. They shall provide for the payment of the principal and interest of the bonded indebtedness, if any, of such city, and for the payment of the other indebtedness of such city not funded; and they shall each year levy, assess, and collect an additional tax upon the taxable property as aforesaid, not exceeding two per centum in any one year, which, when collected, shall be paid into a fund to be disbursed as follows:

1. To pay the interest on said bonds;
2. To a fund for the payment of the principal thereof; and,
3. To meet any indebtedness, as aforesaid, not funded.

And the city council, in making said levy, shall estimate the proportion requisite for each fund, and the same shall be expended, under the direction of the city council, for the purpose aforesaid, and for no other purpose. Said tax shall be levied, assessed, and collected upon all property liable to taxation within such portion and such limits, and so much of the territory of such city as shall be liable therefor under the laws and charters in existence at the time of the organization of such city under this act; and if, by reason of extension of territory, or from any cause, a portion only, or a certain district, of such city be liable, under said laws and charters, for the payment of the bonded and other indebtedness above named, or any portion of either thereof, the city council in levying such tax shall make such levy upon and against the property which is situated and persons who may reside in the territory of such city, liable in each case for the payment of such indebtedness, or any particular class or portion thereof, according to such existing laws and charters. The city council shall also have power to raise annually, by tax upon all the property within the city taxable for state purposes, whatever amount of money may be requisite for the support of free public schools therein, including high schools, and providing and furnishing houses therefor; but the tax provided for in this section shall not exceed thirty-five cents on each one hundred dollars' valuation upon the assessment roll in any one year, and may, in like manner, raise by tax a fund for the establishment and maintenance of a free public library and reading-room; such tax not to exceed, in any one year, the rate of ten cents on each hundred dollars' valuation.

§ 641. It shall be the duty of the city assessor to prepare, between the first day of January and the first Monday in April in each year, and present to the city clerk, with his certificate of its correctness, a list of all the real and personal property within the city on the first day of January taxable for state and county purposes, with a true valuation thereof on the first day of January, which said assessment list shall conform as near as practicable, when not inconsistent with the provisions of this chapter, to the assessment list required by law to be made by the county assessor for state and county purposes; also, to make all assessments for the improvements of streets as herein or by ordinance provided; to be present at the sessions of all boards of equalization mentioned in this chapter, and to furnish to said board such information as may be required, and to perform such other services in reference to the assessments of property in the city or otherwise appertaining to his office as the city council by ordinance or resolution may require. During the session of the board of equalization the city assessor shall enter upon the assessment list all the changes and corrections made by the board, and may assess and add to such list any property in such city not previously assessed. In the assessment and listing of property for taxation, and in the collection of tax upon personal property not secured by lien upon real estate, he shall have and may exercise the same powers as are conferred by law upon county assessors, and shall receive therefor the same fees and compensation. He shall receive a salary to be fixed by the city council, which shall not exceed five hundred dollars per annum. [Amendment, Stats. 1889, 371.]

§ 642. The city council, or a committee of their number selected for that purpose by the city council, at a meeting thereof to be held on the first Monday of April of each year, shall constitute a board of equalization, and shall, after the assessor shall have completed and handed in his assessment list to the city clerk, and after five days' notice published in some newspaper in such city, hold meetings to hear and determine all complaints respecting the valuation of property as fixed by the assessor in such list, and shall have power, on their own motion, with or without complaint made, to modify and change such valuation in any way they shall deem just and proper; provided, however, that before making any change in any assessment, the board shall notify the person interested by letter, deposited in the post-office or express, post-paid, and addressed to such person, at least three days before action taken, of the day fixed when the matter shall be investigated; provided, further, that no reduction must be made in the valuation of property, unless the party affected thereby, or his agent, makes and files with the board a written application therefor verified by his oath, showing the facts upon which it is claimed such reduction should be made. Any member of said board shall have power to administer oaths and affirmations in the matters before said board, and the sessions of said board shall be held from time to time, as in its notice specified, for the period of two weeks, and no longer.

§ 643. After the board of equalization shall have completed their duties, the city clerk shall add up the columns of valuation, and enter the total valuation of each description of property in the list, and the total value of all property assessed and listed thereon; and thus equalized and added up, the clerk shall, on the first Monday of May thereafter, deliver it to the city council.

§ 644. On the first Monday in May in every year the city council, by an ordinance, shall levy upon all the property in the city taxable by law for state purposes a tax for school purposes, and for the current and general expenses of the city, and, in conformity to the provisions of this chapter, shall levy any and all other taxes by law directed then to be levied or assessed; and, in conformity with the provisions of this chapter, shall levy a tax for the payment of the funded debt upon the property liable therefor. Every tax so levied is made a lien, which shall attach on said day in each year to and against all real property assessed for the amount assessed against it; and if said property be assessed to a wrong person, or by a wrong name, said lien shall in nowise be affected or invalidated, and it shall not be satisfied or removed until the taxes are paid, or the property has absolutely vested in a purchaser under and by reason of a sale for such taxes. Every tax assessed upon personal property is a lien upon the real property of the owner thereof from and after the time of the levy of such tax. The fiscal year shall begin on the first day of January; and the terms "real and personal property" shall have the same meaning as the same terms used in the revenue laws of the state.

§ 645. As soon as the city council have declared and levied the taxes in any year, as in the preceding section provided, the city clerk shall carry out, in a separate money column in the list, the amount of taxes assessed against each individual, firm, company, corporation, or unknown owner, and add and put down the aggregate of all taxes as shown by the list; and as thus carried out, the city clerk shall certify to its correctness, and on or before the third Monday of May thereafter deliver it to the city collector, and shall charge him with the amount of taxes so footed up, and take his receipt therefor.

§ 646. The collector, on receiving the assessment list certified by the clerk, shall proceed to collect the taxes specified therein, and pay over the same into the treasury, taking a receipt thereof [therefor]. For the purpose of collecting the taxes authorized by this chapter, the city collector shall have such powers as are given by the revenue laws of this state to collectors of state and county taxes, so far as the same are applicable. All taxes unpaid at the close of official business on the third Monday of June shall be deemed delinquent, after which time the collector shall receive no money for taxes; and he shall, on said day, enter upon assessment roll a levy upon all property therein assessed the taxes upon which remain unpaid, and shall immediately ascertain the total amount of taxes unpaid, and file in the office of the city clerk a list of all persons and property then owing taxes, verified by his oath, which list shall be known as the delinquent list.

§ 647. On the third Monday in June of each year, at six o'clock p. m., all unpaid taxes are delinquent, and thereafter the collector must collect thereon, for the use of the city, an addition of five per centum.

§ 648. On the first Monday in July of each year, the city collector must deliver to the city clerk a complete delinquent list of all persons and property then owing taxes: and in the list so delivered must be set down in numerical or alphabetical order all matters and things contained in the assessment roll and relating to delinquent persons or property.

§ 649. The city clerk must carefully compare such delinquent list with the

assessment roll, and if satisfied that it contains a full and true statement of all taxes due and unpaid, he must foot up the total amount of taxes so remaining unpaid, credit the city collector therewith, and make a final settlement with him of all taxes charged against him on the assessment roll; and must require from him the treasurer's receipt for the full amount of taxes collected.

§ 650. After settlement with the city collector, as prescribed in the preceding section, the city clerk must charge the city collector with the amount of taxes due on the delinquent tax list, with the five per centum added thereto, and within three days thereafter deliver the list, duly certified, to such city collector.

§ 651. On or before the third Monday in July of each year, the city collector must publish the delinquent list, which must contain the names of the persons and a description of property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property, added to taxes on real estate where the real estate is liable therefor, or the several taxes are due from the same person. To said list must be appended and with it published a notice that unless the taxes delinquent, together with the costs and percentage, are paid, the real property upon which such taxes are a lien will be sold at public auction, and designating therein the time and place of such sale, which must take place in or in front of the city collector's office, and not less than fourteen nor more than twenty-one days from the first publication.

§ 652. Said list must be published three times a week for two successive weeks in some newspaper or supplement thereto published in such city, and when such publication is completed, and before commencing the sale, the city collector must file with the city clerk a copy of the publication, with his affidavit attached thereto, that it is a true copy of the same, and that the publication was made in a newspaper or a supplement thereto, stating the name and place of publication; such affidavit shall be prima facie evidence of all the facts therein stated. The expense of the publication of the delinquent list is to be paid by the city.

§ 653. The city collector must collect, in addition to the taxes due on the delinquent list, and five per centum added thereto, fifty cents on each lot, piece, or tract of land separately assessed, and on each assessment of personal property, one half of which must go to the city, and the other to the city collector, in full for preparing the list.

§ 654. On the day fixed for the sale, or on some subsequent day to which he may have postponed it, of which he must give notice, the city collector, between the hours of ten o'clock a. m. and three p. m., must commence the sale of the property advertised, commencing at the head of the list, and continuing alphabetically, or in the numerical order of lots and blocks, until completed.

§ 655. He may postpone the day of commencing the sale, or the sale, from day to day; but the sale must be completed within two weeks from the day first fixed.

§ 656. The owner or person in possession of any real estate offered for sale

for taxes due thereon may designate, in writing, to the city collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or the possessor does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the taxes and costs due, including fifty cents to the city collector for the duplicate certificate of sale, is the purchaser.

§ 657. After receiving the amount of the taxes and costs, the city collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for taxes, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed.

§ 658. The certificates must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder.

§ 659. The city collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of sale, purchaser's name, and amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use.

§ 660. On filing the certificate with the county recorder, the lien of the city vests in the purchaser, and is only divested by the payment to him, or to the city treasurer for his use, of the purchase money, and fifty per centum thereon.

§ 661. A redemption of the property sold may be made by the owner, or any party in interest within twelve months from the date of the purchase.

§ 662. On receiving the certificate of sale, the recorder must file it, and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate or of the city treasurer for his use, of the total amount of redemption money, the recorder must mark the word "Redeemed," the date, and by whom redeemed, on the certificate, and in the margin of the book where the entry of the certificate is made.

§ 663. If the property is not redeemed within the time allowed by law for its redemption, the city collector, or his successor in office, must make to the purchaser, or assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. The collector shall be entitled to receive from the purchaser three dollars for making such deed.

§ 664. The matters recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

1. The property was assessed, as required by law;
2. The property was equalized, as required by law;
3. The taxes were levied in accordance with law;
4. The taxes were not paid;

5. At a proper time and place the property was sold, as prescribed by law, and by the proper officer;
6. The property was not redeemed;
7. The person who executed the deed was the proper officer;
8. Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax.

§ 665. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the assessor, inclusive, up to the execution of the deed, and conveys to the grantee the absolute title to the lands described therein, free from all encumbrances.

§ 666. The assessment roll or delinquent list, or a copy thereof, certified by the city clerk, showing unpaid taxes against any person or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

ARTICLE V.—EXECUTIVE DEPARTMENT.

§ 670. The mayor shall be the chief executive officer of the city. He shall have a general supervision over the several departments of the city government, and over all its interests, shall preside over the city council when present, once in three months submit a general statement of the condition of its various departments, and recommend to the city council such measures as he may deem expedient for the public good, or improvement of the city, its finances, or government. He shall sign all ordinances passed by the city council, if he approves them; if he does not approve, he shall, within eight days after its submission to him, return the same to the city clerk's office, with his objections in writing, and at the first meeting of the city council thereafter the same shall be entered upon their journal, and they shall then reconsider such ordinance, and unless two thirds of the councilmen-elect vote for its passage, it shall not become a law. If the mayor shall not so return any ordinance within eight days, it shall become a law as if he had signed it. He may call special meetings of the city council at any time; he shall do so at the written request of four councilmen, by notifying each member personally, or by a written notice left at his last and usual place of abode, or at his place of business during business hours, stating the purpose of such meeting.

§ 671. The president of the city council shall preside at all its meetings when the mayor is not present; and whenever there is a vacancy in the office of mayor, or he is absent from the city, or unable, from any cause, to discharge the duties of his office, the president shall act as mayor and exercise all his authority and be subject to his duties. He shall countersign all warrants and licenses issued under and by authority of the city, but in his absence or inability to perform said duty, the mayor, or, if he is absent or unable to perform said duty, the president pro tempore, or if none has been elected the chairman of the finance committee, may sign the same.

§ 672. The chief of police, city attorney, city assessor, city clerk, and city collector, and street commissioner may each, with the approval of the city council, only appoint such deputies as may be necessary, by writing, to be filed

with the clerk. Each deputy so appointed shall receive for his services a compensation to be fixed by the city council, not exceeding one hundred dollars per month, and shall perform such duties under the direction of his principal as may by said council be prescribed. The principals shall be each responsible for his deputy, and may revoke the appointment at pleasure.

§ 673. The chief of police shall receive a salary which shall not exceed the sum of fifteen hundred dollars per annum, to be determined by the city council.

§ 674. The city treasurer shall receive a salary which shall not exceed the sum of three hundred dollars per annum, to be determined by the city council.

§ 675. It shall be the duty of the city treasurer to receive and safely keep all moneys belonging to such city, from whatever source derived, to place the same to the credit of the different funds to which they properly belong, in a book kept for that purpose; to disburse said moneys by the direction of the city council, and in accordance with the provisions made by them, and the school fund, by the direction of the board of education, under the provisions of this chapter, and to make a report monthly to the city council of the condition of the treasury.

§ 676. It shall be the duty of the clerk of the city to keep the corporate seal and all papers and documents belonging to the city; to file them in his office, under appropriate heads; to attend the sittings of the city council and to keep a journal of their proceedings and records of all their by-laws, resolutions, and ordinances; to sign all warrants and licenses issued in pursuance of the orders and ordinances of the city council, and to affix the corporate seal on such licenses; to keep an accurate account in a suitable book, under the appropriate heads, of expenditures of all orders drawn upon the city treasurer, and all warrants issued in pursuance thereof; also, to keep an account in an appropriate book of all licenses issued, with the names of the persons to whom issued, the date of issue, the time for which the same was granted, and the sums paid therefor, and to perform such other duties as he may be required to perform by the provisions of this act, or by ordinance. He shall receive for his services a salary to be fixed by the city council, not exceeding the sum of one hundred dollars per month.

§ 677. It shall be the duty of the city assessor to prepare the assessment rolls, lists, and books, and to make the assessment of persons and property in said city as required by this chapter; also to make and present all assessments for improvement of streets, or other work of like character. He shall receive a salary, to be fixed by the city council, not exceeding five hundred dollars per annum.

§ 678. The city collector and street commissioner shall collect all taxes, assessments, licenses, wharfage rates, and all other moneys or dues owing, accruing, belonging, or coming to said city, and the same shall pay over monthly to the city treasurer, unless otherwise ordered by the city council. He shall regulate the landing and stationing of all steamers, vessels, boats, or other water-craft, and shall make report to the city council each month. As street commissioner, he shall have the general supervision of all streets, public squares, levees, wharves, sloughs, drains, waterways, bridges, sidewalks, crosswalks, and public buildings, and shall superintend all work, repairs, or

improvement thereof or thereon. At the request of the street committee of the city council, he shall make report to them of any of his doings, and shall do and perform all such other duties as may be required of him by ordinance of the city council. As street commissioner of such city, he is hereby authorized, in his official capacity, to make all written contracts, and receive all bonds authorized in this chapter, and to do any other act, either expressed or implied, that pertains to the street department under this chapter. He shall fix the time for the performance of the work under all contracts entered into by him, in accordance with the notice given by the council; and may extend the time so fixed, from time to time, under the direction of said council. All work upon the streets, avenues, or in the matter of sidewalks or bridges, or in the improvement of the public buildings, squares, and places of said city provided for in this chapter, or under the orders or ordinances of the city council of such city, must in all cases be done under the direction and to the satisfaction of the street commissioner, and the materials used shall be such as are required by said commissioner, in accordance with the contracts; and all contracts made therefor must contain this condition, and also express notice that in no case, except when it is otherwise provided in this chapter, will the city be liable for any portion of the expense, and where such expense is defrayed by assessments, in no case for any delinquency of persons or property assessed.

§ 679. The police force of such city shall consist of the chief of police, and such number of policemen as shall from time to time be fixed and determined by the city council.

§ 680. The policemen of such city shall be elected by a police commission, to consist of the mayor, chief of police, and the police judge; and such policemen shall hold office from and after their election to and including the second Monday in January next ensuing after a regular city election, unless sooner removed for cause.

§ 681. The president of the city council, the chairman of the finance committee, and the chairman of the street committee of the city council shall constitute a police trial commission, and such commission shall have power, under rules of procedure to be prescribed by ordinance of such city, to receive, hear, try, and determine all complaints against policemen of such city for violation of official duty, or of any rule, regulation, by-law, or ordinance of such city, and shall have power in such behalf to condemn or acquit, reprimand, suspend, or remove any policeman.

ARTICLE VI.—JUDICIAL DEPARTMENT.

§ 690. A police court is hereby established in such city, which court shall always be open, except upon non-judicial days, and upon such days may transact criminal business only.

§ 691. The police court of such city shall have jurisdiction of the following public offenses committed within such city:

1. Petit larceny;
2. Assault or battery, not charged to have been committed upon a public officer in the discharge of his official duty or with intent to kill;
3. Breaches of the peace, riots, affrays, committing wilful injury to prop-

erty, and all misdemeanors punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment;

4. Of proceedings respecting vagrants, loud [lewd] or disorderly persons;

5. Of all proceedings for violation of any ordinance of said city, both civil and criminal; of any and all suits to recover taxes, general or special, levied in such city for city purposes, and of all suits to recover any assessment levied in such city for the improvement of streets, avenues, levees, sidewalks, and public squares, and for the opening or laying out of the same, when the amount of said tax or assessment sought to be collected against the person, firm, or corporation assessed is less than three hundred dollars, provided, no lien upon the property taxed or assessed for the non-payment of the taxes or assessment is sought to be foreclosed by said suit;

6. Of an action for the collection of money due to such city, or from the city to any person, firm, or corporation, when the amount sought to be collected is less than three hundred dollars;

7. Of an action for the breach or violation of any official bond given by any city officer, and for the breach of any contract, and any action for damages in which the city is a party, or is in any way interested, and on all forfeited recognizances given to or for the benefit or in behalf of such city, and upon all bonds given upon any appeal taken from the judgment of said court in any action above named, when the amount claimed, exclusive of cost, is less than three hundred dollars;

8. Of an action for the recovery of personal property belonging to the city when the value of the property, exclusive of the damages for the taking or detention, is less than three hundred dollars;

9. Of an action for the collection of any license required by any ordinance of the city;

10. The police court shall have exclusive jurisdiction of all proceedings mentioned in this section; and no justice of the peace in such city shall have power to try and decide any cases of the classes mentioned in said section; provided, that any justice of the peace of such city who may be designated in writing by the mayor, or president of the city council thereof, for the purpose, shall have power to preside in and hold the police judge's court of said city in the cases in which the police judge is a party, or in which he is directly interested, or when the judge is related to either party by consanguinity or affinity within the third degree; and also in the case of the sickness or temporary absence of the judge, or his inability to act from any cause; and in all such cases, and during such sickness, temporary absence, or inability, the justice so designated shall act as police judge, and shall have and exercise all the powers, jurisdiction, and authority which are or may be by law conferred upon said court or judge.

§ 692. The judge of said court shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law; and to punish persons guilty of contempt of court, and shall have power to issue warrants of arrest in cases of a criminal prosecution for the violation of a city ordinance, as well

as in case of the violation of the criminal law of the state; also, all subpœnas and all other processes necessary to the full and proper exercise of his powers and jurisdiction in all criminal trials before the police judge for the violation of a city ordinance, as well as in cases of a violation of the criminal law of the state, made triable before such court; the defendant shall be entitled, if demanded by him, to a jury trial, but a trial by jury may be waived by the defendant in all such cases, and upon such waiver the court shall proceed and try the case.

§ 693. The city council shall furnish, for the use of the police court, two dockets; one shall be styled the "City Criminal Docket," in which all criminal cases shall be recorded, and each case shall be alphabetically indexed; the other shall be styled the "City Civil Docket," and it shall contain a record of every civil case which is prosecuted before said court, and each case shall be properly indexed, and in all cases the dockets shall contain all such entries as are required by law to be made in the justice's docket; and in any case commenced or tried before the court the docket must show what duties were performed by each officer, and the amount of fees due to the officer for such services, and the amount of money, if any, collected.

§ 694. Appeals from the police court may be taken to the superior court of the county in all cases cognizable by the said police court, and such appeals shall be taken as in case of appeal from a justice's court.

§ 695. The city attorney of such city shall prosecute all cases for the violation of any lawful order, regulation, or ordinance of the city council, and shall prosecute, conduct, and control all proceedings in cases mentioned in section six hundred and twenty-two of this act, both in the police court and on appeal therefrom to the superior court, but the district attorney shall attend and conduct all proceedings of the nature of a preliminary examination before said police court.

§ 696. In all cases when the police court is authorized to impose a fine or imprisonment, or both, upon persons convicted in said court of any offense triable therein, the said court may sentence the offender to be imprisoned in the city jail, if there be one established by the city council, if not, then until said council shall designate and establish a city jail or prison, may sentence offenders to be imprisoned in the county jail, and in addition to imprisonment, may sentence offenders to be employed to labor in the city, under the direction of the chief of police, and in the manner prescribed by ordinance, for the benefit of the city, during such time of imprisonment, and may, in case of imposing a fine, embrace as a part of the sentence that, in default of the payment of such fine, the defendant shall be imprisoned and required to labor for the benefit of the city as before provided, at the rate of two dollars a day, till such fine is satisfied. Offenders required to labor under the direction of the chief of police shall, until the establishment of a city jail, be returned to the county jail at the end of each day's labor during their term of imprisonment, until a city jail shall be by the city council established. It is hereby made the duty of the officer having the control or charge of the county jail of the county wherein such city is situated, to receive and safely keep all persons imprisoned by any judgment or order of the police court, in accordance with

the order of commitment, and to allow those to be removed from the jail under the charge of the chief of police, who are required to labor for the benefit of the city, or whom the police judge may order brought forth for trial, and the keeper of the jail shall in no way be responsible for the safe-keeping of such prisoners while so under the charge of the chief of police.

§ 697. The court shall have a seal, to be provided by the city, and certified transcripts of the police judge's docket and the seal of his court shall be evidence in any court of the state of the contents of the docket; and all warrants, and other processes issued out of said court, and all acts done by said police judge under its seal, shall have the same force and validity, in any part of this state, as though issued or done by any court of record of this state.

§ 698. The police judge shall, on the last Saturday of each month, make to the city council a full report of all the cases tried in his court for that month, in which the city may be interested, and at the same time shall pay into the city treasury all fines and other moneys collected on behalf of the city for such month.

§ 699. The city council of such city shall allow to the police judge an annual salary which shall not exceed the sum of fifteen hundred dollars, and to the chief of police and the several policemen of such city each a salary which shall be fixed by said council. The salaries of the police judge, and chief of police and policemen shall be paid from time to time as other city officers and as the council may determine. The chief of police, or any policeman of such city, is hereby authorized and empowered to serve, execute, and return any and all warrants of arrest, and all processes directed to him by the police judge of said city, and to arrest all persons accused or guilty of the violation of any city ordinance, or of any public offense, and to do and perform all acts and duties which, in criminal cases, any constable of the county may lawfully do, and receive like fees for such services; provided, the city council may, in their discretion, deduct the amount so received, for fees from the monthly salary of such officers, or order the same paid into the city treasury for the use and benefit of the city, as received by said officers respectively; provided, that nothing in this charter shall be construed as authorizing or entitling such officers to charge or receive from such city, or the county wherein situated, any fees or costs in any case whatever, nor shall such city or county be liable to pay any fees or costs to such officers for any service they may render in any action or proceeding, either civil or criminal. The chief of police shall attend the session of the police court when required, supervise and direct the police force of the city, and perform such other duties as may be required by the city council appertaining to the government of the city or the management of its affairs, not especially devolved upon some other officer named in this chapter; and the chief of police, or any policeman, at his discretion, shall serve all notices by this chapter provided to be served, in which the city is in any way interested, and the return of the officer serving shall be evidence of the facts in such return stated, but none of such officers shall serve or execute any civil process, except as provided in this chapter.

§ 700. The justices of the peace in and for the township embracing such city shall have the same powers as the same officers in any justice's court of

the county, and shall have and may exercise like powers and authority; provided, however, that no justice of the peace in such city shall have power to conduct or try and decide any proceedings or cases of the classes mentioned in section six hundred and twenty-two of this act; but nothing in this section shall be construed to prevent any of the justices in said city from acting as police judge.

§ 701. The interest which any inhabitant of such city may have in a penalty for the breach of a by-law or ordinance of such city shall not disqualify said inhabitant to act as judge, juror, or witness in any prosecution to recover the penalty.

ARTICLE VII.—SCHOOL DEPARTMENT.

§ 710. The board of education of such city shall be elected as in this chapter provided, and shall consist of one superintendent and two trustees from each ward in the city.

§ 711. The superintendent shall be ex officio secretary of the board of education, and shall receive for his services a salary which shall not exceed eighteen hundred dollars per annum. He shall report to the city council, annually, on or before the first Monday in January, and at such other times as they may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of the city during the preceding year, together with such accommodations [recommendations] as he may deem proper, and shall, at the regular meeting of the board of education in June of each year, submit to the board a detailed statement of the amount, as near as may be ascertained, of fuel, blanks, blank-books, apparatus, stationery, and such other articles, materials, or supplies, including books for indigent children, as may be necessary for the use of the city schools and the board for one year following. He shall have power to administer oaths and affirmations concerning any demand upon the treasury payable out of the school fund, or other matters relating to his official duties. [Amendment, Stats. 1885, 134.]

§ 712. The board of education shall, upon the receipt of the statement from the superintendent, as in the preceding section provided, advertise for the space of five successive days in some newspaper published in such city, for sealed proposals for furnishing the articles in said statement specified. Said advertisement shall designate a day after the expiration of the publication aforesaid when said proposals will be considered, at which time the board or a committee thereof by the board for such purpose designated, shall meet and publicly open and declare the proposals received and shall thereupon award the contract therefor to the lowest responsible bidder or bidders, in each case; provided, that all bids may be rejected if deemed too high. Said board may, in their discretion, require a good and sufficient bond with two or more sureties, to be filed by each bidder, in the sum of two hundred dollars, conditioned for the fulfilment of his proposal in case of the acceptance thereof.

§ 713. Subject to and in accordance with the directions and provisions of this chapter, the board of education shall have full power:

1. To establish and maintain public schools, including high school, and fix and alter the boundaries of the district thereof.
2. To employ and dismiss teachers, janitors, and other necessary help, and

to fix, alter, allow, and order paid their salaries or compensation, and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers and duties of the board, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

3. To make, establish, and enforce all necessary and proper rules and regulations not contrary to law, for the government and progress of the public schools within the city, the pupils therein and the teachers thereof, and for carrying into effect the laws relating to education; also, to establish and regulate the grade of schools, and determine what course of study and mode of instruction shall be used in said schools.

4. To build, alter, repair, rent, and provide school-houses, and the same furnish with lights, water, proper school furniture, apparatus, and school appliances, and to insure any and all school property.

5. To receive, purchase, lease, and hold in fee, in trust for such city, any and all real estate; and to hold in trust any personal property that may have been or may hereafter be acquired for the use and benefit of the public schools of such city.

6. To grade, fence, and improve school lots, and in front thereof to grade, sewer, plank, or pave and repave, and to construct and repair sidewalks.

7. To sue for any and all lots, lands, and property belonging to or claimed by the said school department; and to prosecute and defend all actions at law or in equity necessary to recover and maintain the full enjoyment and possession of said lots, lands, and property, and to employ and pay counsel in such cases.

8. To determine annually the amount of taxation, not exceeding thirty-five cents on each one hundred dollars valuation on the assessment roll, to be raised upon the real and personal property within the city not exempt from taxation, for the establishment and support of free public schools therein; and for carrying into effect all the provisions of law regarding public schools, and the amount so determined by said board of education shall be reported in writing to the city council on or before the first Monday of April of each year; and the said city council are hereby authorized and required to levy and cause to be collected, at the time and in the manner of levying other city taxes, the amount of taxation so determined and reported to them by the said board of education, as school tax, upon all taxable property in the city; and said tax shall be in addition to all other amounts levied for city purposes.

9. To establish regulations for the just and equal disbursement of all moneys belonging to the "Public School Fund."

10. To examine and allow, in whole or in part, every demand payable out of the school fund, or to reject any such demand for good cause, of which the board shall be sole judge.

11. To discharge all legal encumbrances now existing, or which may hereafter exist, upon any school property.

12. To prohibit any child under six years of age from attending the public schools.

13. And generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

14. To use and apply the school fund of the city for the purposes in this section heretofore named, and for no other purpose whatever.

15. To admit non-resident children to any of the departments of the schools of such city upon the payment, at such times as said board may direct, of tuition fee, to be fixed by said board.

§ 714. No teacher shall be employed in any of the public schools of such city without having a certificate of the proper grade, issued under the provisions of this chapter. For the purpose of granting certificates required, the board of education, either as a body or by a board of examination appointed by said board of education, and of which the superintendent shall be president, shall hold examinations of teachers. No certificate shall be issued except to a person who shall have passed a satisfactory examination in such branches as the board may require, and shall have given evidence of good moral character, ability, and fitness to teach. Examinations of teachers must be held semi-annually, at such times as the board may determine.

§ 715. The board may, in its discretion, renew without re-examination the certificate of any person so employed. It shall have power to revoke the certificate of any teacher upon evidence of immoral or unprofessional conduct or incompetency, and shall always have the power to dismiss any and all teachers, and to alter the amount of salary or compensation paid to either or any of them. The board of education may also, without examination, grant certificates and fix the grade thereof to the holders of life diplomas, state educational diplomas, normal school diplomas, state university diplomas, and to the holders of such state and county certificates as were in full force and effect on the first day of January, eighteen hundred and eighty.

§ 716. It shall be the duty of the board of education to visit and examine each school at least once each and every month; to observe, and cause to be observed, such general rules for the regulation and government and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board.

§ 717. The public school fund of such city shall consist of all moneys received from the state and county school fund; of all moneys arising from taxes which shall be levied by the city council for school purposes; of all moneys arising from sale, rent, or exchange of school property, and of such other moneys as may from any source whatever be paid into said school fund; which fund shall be kept separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. No fees or commission shall be allowed or paid for assessing, collecting, keeping, or disbursing of school moneys; and if at the end of the fiscal year any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and no part of the school fund shall be for any purpose or in any manner whatever diverted or withdrawn from said fund, except as in this chapter provided.

§ 718. All claims payable out of the school fund shall be filed with the secretary of the board, and shall be approved by a majority of all the members of the board, and certificate of such approval shall be indorsed thereon; whereupon the secretary of said board shall draw a warrant upon the

city treasurer for the payment thereof, which warrant shall be countersigned by the superintendent. All demands for salaries of teachers and compensation of janitors shall be payable monthly in the same manner without presentation of claims therefor.

§ 719. All demands authorized by this article, and by the board approved as aforesaid, shall be paid by the city treasurer from the school fund upon the presentation of the warrants therefor; provided, that the board of education shall not, without the consent of the city council first had, have power to create any debts or liability in any one year to exceed the actual revenue or available means in the city treasury under the control of the board, and justly applicable for school purposes for such year.

CHAPTER VI.

MUNICIPAL CORPORATIONS OF THE FIFTH CLASS.

(A charter for cities having a population of more than three thousand and not exceeding ten thousand.)

ARTICLE I.—GENERAL POWERS.

§ 750. Every municipal corporation of the fifth class shall be entitled the city of —— (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

ARTICLE II.—GENERAL PROVISIONS RELATING TO OFFICERS.

§ 751. The government of said city shall be vested in a board of trustees, to consist of five members; a board of education, to consist of five members; and whenever a free public library and reading-room is established therein, five trustees thereof; a recorder; a treasurer; a clerk; an attorney; a marshal; an assessor, and such subordinate officers as are hereinafter provided for; provided, that the board of trustees may, in its discretion, by an ordinance adopted, published and recorded as required for general ordinances, at least thirty days before a general city election, at which city officers are to be elected, unite and consolidate certain offices, by declaring:

1. The city marshal elected shall be ex officio superintendent of streets and health officer;

2. The city clerk elected shall be ex officio recorder and assessor;

3. The city treasurer elected shall be ex officio city tax collector and license-tax collector;

4. The city attorney elected shall be ex officio city clerk. [Amendment, Stats. 1901, 70.]

§ 752. The members of the board of trustees, and of the board of education, and the city clerk, city attorney, assessor, marshal, treasurer, and recorder shall be elected by the qualified electors of said city at a general municipal election, to be held therein on the second Monday in April, nineteen hundred and three, and on the second Monday in April of each fourth year thereafter and shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors

are elected and qualified; provided, that a general municipal election shall be held in said city on the second Monday in April, nineteen hundred and five, for the election of successors to the members of the board of trustees and of the board of education whose terms of office expire during said year, and said successors shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The board of trustees may in their discretion appoint a poundmaster, also a superintendent of streets, and a city engineer, all of whom shall hold office during the pleasure of the board. [Amendment, Stats. 1903, 40.]

§ 753. The clerk, treasurer, city attorney, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city in such penal sum as the board of trustees by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter *ex officio* incumbent. Such bonds shall be approved by the board of trustees. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the board of trustees. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

§ 754. Any vacancy occurring in any of the offices provided for in this act shall be filled by appointment by the board of trustees; but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the board of trustees is absent from the city for the period of ninety days, unless by permission of the board of trustees, his office shall by the board be declared vacant, and the same filled as in case of other vacancies.

§ 755. The members of the board of trustees shall receive no compensation whatever, except while acting as a board of equalization. The treasurer, assessor, marshal, clerk, and recorder shall severally receive at stated times a compensation to be fixed by ordinance, by the board of trustees, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the board of trustees from fixing such several amounts of compensation, in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the board of trustees. [Amendment, Stats. 1889, 389.]

§ 756. All elections in such city shall be held in accordance with the general election laws of the state, so far as the same may be applicable, and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The board of trustees shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and

establish election precincts and polling-places, and may change the same; provided, that no part of any ward less than the whole thereof shall be attached to any other ward, or part thereof, in forming election precincts. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote, upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

§ 757. No person shall be eligible to or hold any office in such city, whether filled by election, or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment.

§ 758. The trustees of any free public library created or existing in such city under the provisions of an act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be elected by the qualified electors of said city, at a general municipal election to be held therein on the second Monday in April next succeeding the passage and approval of this act, and shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. In case a vacancy shall occur in the office of trustee of such free public library and reading-room, the board of trustees of said free public library and reading-room shall choose a person to fill such vacancy, who shall serve until the next general municipal election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term. [Amendment, Stats. 1897, 403.]

ARTICLE III.—LEGISLATIVE DEPARTMENT.

§ 760. The board of trustees shall meet on the Monday next succeeding the date of said general municipal election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the president of the board or by three trustees, by written notice delivered to each member at least three hours before the time specified for the purposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

§ 761. At any meeting of the board of trustees, a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The president of the board shall preside at all meetings of the board, and in case of his absence, the board may appoint a president pro tempore; and in case of the absence of the clerk, the president or president pro tempore shall appoint one of the members of the board clerk pro tempore.

§ 762. The board of trustees shall judge of the qualifications of its members and of all election returns, and determine contested elections of all city officers.

They may establish rules for the conduct of their proceedings, and punish any member, or other person, for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and, at the desire of any member, shall cause the ayes and noes to be taken on any question, and entered on the journal.

§ 763. No resolution granting any franchise, and no ordinance for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, or an adjourned regular meeting, and no such resolution and no ordinance granting any franchise shall be passed without being first submitted to the city attorney. No resolution or order for the payment of money shall be passed at any other than a regular meeting, or an adjourned regular meeting, and no resolution or order for the payment of money, no resolution granting a franchise, and no ordinance for any purpose, shall have any validity or effect unless passed by the affirmative vote of at least three trustees. [Amendment, Stats. 1889, 389.]

§ 764. The board of trustees of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have any power to sell or convey any portion of any water front; but may rent such water front for a term not exceeding ten years for the purpose of erecting bath-houses thereon.

3. To contract for supplying the city with water and electric or other lights for municipal purposes; to purchase, lease, or construct waterworks, and electric plants, subject to the proviso in this subdivision contained, and all power, machinery, conductors, and appliances necessary therefor, and to supply said city with, and to sell to the inhabitants thereof, water, light, heat, and power; provided, that no such purchase or lease shall be made unless the question of acquiring such property is submitted to the voters of such city in the same manner as other propositions, at a general or special municipal election, and a majority of the electors, voting at such election, shall vote in favor of such proposition.

4. To establish, build and repair bridges; to establish, lay out, alter, keep open, open, improve and repair streets, sidewalks, alleys, squares, and other public highways and places within the city, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof, to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places.

5. To establish, construct and maintain drains and sewers, and to provide by ordinance for a general system of sewers, and the expense of building and maintaining the same.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

7. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll-tax, not exceeding two dollars, and no other road poll-tax shall be collected within the limits of such city; provided that any member of a volunteer fire company in such city shall be exempt from such tax.

8. To impose and collect an annual license, not exceeding two dollars on every dog owned or harbored within the limits of the city.

9. To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; for school fund, not exceeding twenty-five cents on each one hundred dollars; for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year for all purposes to which such funds are applicable shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city.

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license upon the same, and to provide for the collection of the same by suit or otherwise.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and to remove obstructions therefrom; to improve the water front of the city, and to construct and maintain embankments and other works to protect such city from overflow.

12. To erect and maintain buildings for municipal purposes.

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity, or other power thereon, and the laying of gas or water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of telegraph, telephone, and electric light lines therein.

14. In its discretion to divide the city, by ordinance, into a convenient number of wards, not exceeding five, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered. Whenever such city shall be so divided into wards, the board of trustees shall designate by ordinance the number of trustees to be elected from each ward, apportioning the same in proportion to the population of such ward; and thereafter the trustees so designated shall be elected by the qualified electors resident in such ward, or by the general vote of the whole city, as may be designated in such ordinance.

15. To appoint and remove such policemen and such other subordinate officers as they may deem proper, and to fix their duties and compensation.

16. To impose fines, penalties, and forfeitures for any and all violation of ordinances, and for any breach or violation of any ordinance to fix the penalty

by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months.

17. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other property or works within the city.

18. To establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of all buildings, sheds, awnings, signs, or any structure of a dangerous or unsafe character; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, back yards or public grounds of such city, or elsewhere therein; to regulate or prohibit the storage of gunpowder and combustible or explosive materials of every kind and nature within the city limits, and to prescribe the limits in which the same may be kept or stored.

19. To do and perform any and all other acts and things necessary and proper to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary, and other regulations as do not conflict with general laws. [Amendment, Stats. 1905, 45.]

§ 765. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city of ——— do ordain as follows." Every ordinance shall be signed by the president of the board of trustees, attested by the clerk, and published at least once in a newspaper published in such city, or printed and posted in at least three public places therein. It shall not be necessary in any action, civil or criminal, to plead or prove the organization or existence of such corporation, nor the passage, existence, or validity of any ordinance thereof; and courts shall take judicial cognizance thereof without proof. [Amendment, Stats. 1889, 389.]

§ 766. All demands against such city, except as otherwise by law provided, shall be presented to and audited by the board of trustees, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the president of the board shall draw a warrant upon the treasurer for the same, which warrant will be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid. [Amendment, Stats. 1889, 389.]

§ 767. The board of trustees shall not create, audit, allow, or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes, except in the manner provided by law for incurring indebtedness; provided, that any city during the first year of its existence under this act may incur such indebtedness or liability as may be necessary, not exceeding in all the income or revenue provided for it for such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinbefore provided. [Amendment, Stats. 1889, 389.]

§ 768. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purposes for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine

whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred; the purpose or purposes if the question of indebtedness for more than one purpose be proposed of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund as hereinafter provided; provided, that such interest shall not be in excess of seven per centum per annum. Such notice shall be published for at least two weeks in some newspaper published in such city, and no other question or matter shall be submitted to the electors at such election. If, upon the canvass of the votes cast at such election, it appears that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the mode of creating such indebtedness and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also, to constitute a sinking fund for the payment of the principal thereof within a period of not more than twenty years from the time of contracting of the same. It shall be the duty of the board of trustees, in each year thereafter, at the time at which taxes are levied, to levy a tax sufficient for such purposes in addition to the taxes by this chapter authorized to be levied. Such tax when collected shall be kept in the treasury as a separate fund, or funds, in case indebtedness be incurred for different purposes, to be inviolably appropriated to the payment of the principal and interest of such indebtedness. [Amendment, Stats. 1889, 371.]

[At the same session another amendment of § 763 (Stats. 1889, 397) was as follows: "If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purposes for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes (if the question of indebtedness for more than one purpose be proposed) of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund for each purpose, as hereinafter provided. Such notice shall be published for at least two weeks in some newspaper published and circulated in such city; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appears that not less than two thirds of all the qualified electors voting at such election, or if more than one proposition is submitted, voting on such proposition, shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the work of creating such indebtedness and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the board of trustees in each year thereafter, at the time at which other

taxes are levied, to levy a tax sufficient for such purposes in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, or funded if indebtedness be incurred for different purposes, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.”]

§ 769. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city in the name of the people of the state of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail, or, if the board of trustees shall by ordinance so prescribe, in the county jail of the county in which such city may be situated; in which case the expense of such imprisonment shall be a charge in favor of such county against such city. [Amendment, Stats. 1905, 72.]

§ 770. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

§ 771. The board of trustees are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways and public places of such city. The cost and expense incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city, removing obstructions therefrom; grading, paving, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts, provided, that the board of trustees may expend from the general fund for said purposes a sum not exceeding one hundred dollars on any one street in any one year. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings, or crossways at corners or intersection of streets, and the expense of establishing, building, and repairing bridges in such city, shall be paid by such city. The expense incurred in making and repairing sewers in any streets shall be paid, one fourth by the owner of the lands on one side of said street, one fourth by the owner of the land on the other side of said street, and one half by the city out of the sewer fund. In all the streets constituting the water front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said water front, or to such property of the city bounded thereon, shall be paid for by such city; but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or

public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter. Whenever any expenses or cost of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Civil Procedure. Said suit shall be in the name of the city of (naming it), as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees.

§ 772. Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending, and widening streets and other public highways and places within the city, or for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams, and the improvement of water fronts, and the board of trustees cannot agree with the owner thereof as to the price to be paid, the trustees may direct proceedings to be taken under section twelve hundred and thirty-seven, and following sections, to and including section twelve hundred and sixty-three of the Code of Civil Procedure, to procure the same.

§ 773. The board of trustees shall have the power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all city taxes not inconsistent with the provisions of this chapter. All taxes shall be collected by the marshal or treasurer, as may be determined by the board of trustees by ordinance. All taxes assessed, together with any percentage imposed for delinquency and the cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March of each year, and may be enforced by a sale of the real property affected, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by action in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within five years and upon the terms provided or that may hereafter be provided for the redemption of property sold for state taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state taxes. [Amendment, Stats. 1905, 88, but see § 871 post and note.]

§ 774. The board of trustees shall meet at their usual place of holding meetings on the second Monday of August of each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the city clerk, who shall act as clerk of the board of equalization,

as being the assessment roll for said tax, and shall be the assessment roll upon which such tax is to be levied in said year.

§ 775. Nothing in this chapter contained shall be construed to prevent any city having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected; nor to prevent any city from levying and collecting the tax authorized by the act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll-tax, and from fines, penalties, and forfeitures, shall be paid into the general fund.

§ 776. The board of trustees may also levy, and cause to be collected in each year, in addition to the taxes herein authorized to be levied and collected, a tax, not exceeding ten cents on each one hundred dollars of the assessed value of all real and personal property within such city subject to taxation, the proceeds of which tax shall be known as the "River and Water Front Improvement Fund," and shall be applied to the improvement of streams, bays, and water fronts, and the erection of embankments and other works to protect the city from overflow, and for no other purposes whatever.

§ 777. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation printed and published in such city, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period. Such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject any and all bids presented, and readvertise, in their discretion. The board of trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section, and the contract therefor shall be awarded separately from all other printing. [Amendment, Stats. 1891, 54.]

§ 778. The president of the board of trustees shall preside over all meetings of the board at which he is present. In his absence a president pro tempore may be chosen. The president, and in his absence the president pro tempore, shall sign all warrants drawn on the city treasurer, and, unless otherwise provided by said board, shall sign all written contracts entered into by said city, as such president or president pro tempore. The authority and power of the president pro tempore shall continue only during the day on which he is chosen. The president and president pro tempore shall have power to administer oaths and affirmations, and take affidavits and certify the same under their hands. The president or president pro tempore shall sign all conveyances made by said city, and all instruments which shall require the seal of the city. The president is

authorized to acknowledge the execution of all instruments executed by said city that require to be acknowledged. He shall have power to administer oaths and affirmations concerning any demand upon the treasury, and in all matters relating to the duties of the board of trustees, and to witnesses examined in any investigation had by said board, or by any committee thereof duly authorized to make such investigation. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk to compel the attendance of witnesses before such board of trustees or committee thereof. [Amendment, Stats. 1889, 389.]

ARTICLE IV.—EXECUTIVE DEPARTMENT.

§ 786. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as city treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the city clerk. He shall pay out said money on warrants signed by the proper officers, and not otherwise, except interest coupons on bonds. He shall make quarterly settlements with the city clerk. He shall collect all taxes levied by the board of trustees, if so required by ordinance. [Amendment, Stats. 1889, 389.]

§ 787. It shall be the duty of the assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the city clerk, on or before the first Monday of August in each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of such city over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of August in each year, deposit the same with the city clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duties.

§ 788. It shall be the duty of the city clerk to keep a full and true record of all the proceedings of the board of trustees and of the board of equalization. The proceedings of the board of trustees shall be kept in a book, marked "Records of the Board of Trustees." The proceedings of the board of equalization shall be kept in a separate book, marked "Records of the Board of Equalization." He shall keep a book, which shall be marked "City Accounts," in which shall be entered as a credit all moneys received by the city for licenses, the amount of any tax when levied, and all other moneys received; and in which shall be entered upon the debtor side all commissions deducted, and all warrants drawn on the treasury. He shall also keep a book, marked "Marshal's Account," in which he shall charge the city marshal with all the tax lists, if any, delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him. He shall also keep a book, marked "Treasurer's Account," in which he shall keep a full account of the transactions of the city with the treasurer. He shall also keep a book, marked "City Licenses," in which

he shall enter all licenses delivered by him to the marshal, and the amount thereof. He shall also keep a book, marked "City Ordinances," into which he shall copy all city ordinances, with his certificate annexed to said copy, stating the foregoing ordinance is a true and correct copy of an ordinance of such city, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Said records shall not be filed in any case, but shall be returned to the custody of the city clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the board of trustees and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The city clerk shall also keep a book, marked "Demands and Warrants," in which he shall note every demand against the city, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed and a warrant is drawn, he shall also state the number of the warrant, with sufficient dates. This books shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll for any of the taxes of the city, and levying of the tax thereon, the city clerk shall apportion the taxes upon such assessment roll, and shall deliver it to the officer charged with the duty of collecting taxes. It shall not be necessary to make a duplicate assessment roll. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths and affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city, and certify the same without charge. He shall be the custodian of the seal of such city. He shall make a quarterly statement, in writing, showing the receipts and expenditures of the city for the preceding quarter, and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city, which shall be published. He shall perform such other services as this act and the ordinances of the board of trustees shall require. [Amendment, Stats. 1889, 389.]

§ 789. It shall be the duty of the city attorney to advise the city authorities and officers in all legal matters pertaining to the business of said city and to render such other services in the line of his profession as may be required of him by the board of trustees. [Amendment, Stats. 1889, 389.]

§ 790. The department of police of said city shall be under the direction and control of the city marshal; and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by the laws of the state, and shall, in all respects, be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police officers, and watchmen in said city, and

every citizen shall also lend him aid, when required, for the arrest of offenders and maintenance of public order. He shall and is hereby authorized to execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute before the recorder all breaches or violations of or non-compliance with any city ordinance which shall come to his knowledge. He shall collect all taxes levied by the board of trustees, except as is herein provided. He shall, at the expiration of any month, pay to the city treasurer all taxes and other funds of said city collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the city clerk, and shall, upon depositing with the city clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all city licenses and collect the same. He shall have charge of the city prison and prisoners, and of any chain-gang which may be established by the board of trustees. He shall, for service of any process, receive the same fees as constables. He may appoint, subject to the approval of the board of trustees, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which shall be the same as those allowed to the city marshal. He may also, with the concurrence of the president of the board of trustees, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the board of trustees shall require, and shall receive such compensation from the city as shall be fixed by ordinance, in addition to such mileage and fees as he shall receive in the service of process of the courts of this state, other than the recorder's court of such city, which mileage and fees shall be the same as is allowed by law to constables in the county in which such city is situated. [Amendment, Stats. 1893, 299.]

§ 791. The board of trustees shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers, and fix their compensation.

ARTICLE V.—SCHOOL DEPARTMENT.

§ 795. From and after the organization of each of such cities, the same shall constitute a separate school district, which shall be governed by the board of education of such city; provided the board of supervisors may include more territory in such school district than that included in such city, and in that case such outside territory shall be deemed a part of such city for the purpose of holding the general municipal election and shall be an election precinct by itself and its qualified electors shall vote only for the board of education, and said outside territory shall be deemed to be a part of said city for all matters connected with the school department, and the annual levying and collecting of the property tax for the school fund. [Amendment, Stats. 1891, 28.]

§ 796. In case a vacancy shall occur in the office of school director, the board of education shall choose a person to fill such vacancy, who shall serve until the next election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term.

§ 797. The board of education shall meet on the second Tuesday after such general municipal election, and choose one of its members as president, and shall appoint a secretary, who shall hold at the pleasure of said board. The regular meetings of said board shall thereafter be held as often as once in each month, in the place provided for the board of trustees, and the time for holding such meetings shall be fixed by the board of education. Special meetings of said board may be held when called by written notice, signed by its president, or three of its members, and delivered personally to each of its members who shall not have signed the same. Three members shall constitute a quorum, and no business shall be transacted by said board of education without the concurrence of three of its members; but a majority of the members present at any meeting may adjourn from time to time. All the meetings of said board of education shall be public, and full records of its proceedings shall be kept by the secretary of said board. The members of the board of education shall receive no compensation for their services as school directors. [Amendment, Stats. 1891, 114.]

§ 798. The board of education shall have power:

1. To establish and maintain public, primary, kindergarten, grammar, and evening schools, and to subdivide the school districts, and to fix and alter the boundaries of such subdivisions.

2. To employ and dismiss a superintendent of schools, teachers, janitors, truant officers, and school census marshals, and to fix, alter, allow, and order paid their salaries or compensations; and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers hereby conferred.

3. To make, establish, and enforce all necessary or proper rules and regulations, not in conflict with the laws of this state, for the government and management of public schools within such city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education.

4. To provide for the school department of such city, fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

5. To build, alter, repair, rent, and provide school-houses, and to furnish the same with proper school furniture, apparatus, and appliances, and to insure any and all school property.

6. To purchase, receive, lease, and hold in fee, in trust for such city, any and all real estate and personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the schools of such city; provided, that no real estate shall be bought, sold, or exchanged, nor any expenditure incurred for the construction of new school-houses, without the approval of the board of trustees; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to the purchase of other lots for the erection of school-houses.

7. To grade, fence, and improve all school lots.

8. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in reference thereto; and in pursuance of this provision, the board of education shall, at least ten days before the meeting of the board of trustees at which the annual city taxes are levied, submit in writing to the board of trustees a careful estimate of the whole amount of money to be received from the state and county, and of the amount to be required from such city for the above-mentioned pur-

poses; and the amount so found to be required from the city shall, by the board of trustees, be added to the above amounts to be assessed and collected for city purposes, and when collected, the proceeds thereof shall be immediately paid into the school fund of such city, to be drawn out only upon the order of the board of education; provided, that such annual tax shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of the real and personal property within such city.

9. To establish regulations for the just and equal disbursement of all moneys belonging to the school fund.

10. To discharge all legal encumbrances existing at the time of the incorporation of such city, or thereafter, on any school property within such city.

11. To admit non-resident children, and persons over twenty-one years of age, to any of the departments of the schools of such city, upon the payment monthly, in advance, of such tuition fee as said board may establish.

12. To prohibit any children under six years of age from attending the public schools.

13. To establish and regulate the grades of schools in such city, and the course of study, and the mode of instruction to be pursued therein, and determine what text-books shall be used.

14. To do and perform, in addition to the foregoing powers, such other acts as may be necessary or proper to carry into effect the powers hereby conferred. [Amendment adopted March 14, 1889. Stats. 1889, 98.]

§ 799. The board of education may sue and be sued by their name of office. In any action or judicial proceeding against said board, service of process upon the president, or upon a majority of the members of the board shall be sufficient to give the court jurisdiction to hear and determine the same.

§ 800. All moneys received by the treasurer of the county wherein such city may be situated, on account of the school fund of such city, or the school district consisting of the same, and all sums received into the county treasury, which may be apportioned to said city or district, shall be paid to the treasurer of such city, by the treasurer of such county, as soon as received, or as soon as the apportionment shall be made, when apportionment is necessary, upon the order of the board of education.

§ 801. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the board of education, and to witnesses examined in any investigation had by such board of education, or by a committee thereof, duly appointed by it, for that purpose.

§ 802. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of education, or committee thereof, who shall be entitled to the same fees as witnesses in civil cases, and who may be punished for contempt for non-attendance, or refusal to be sworn, or to answer, by the superior court of the county in which such city may be situated.

§ 803. Every claim payable out of the school fund shall be filed with the secretary of the board of education, and after it shall have been approved by

the board a certificate of such approval shall be indorsed thereon, signed by the president and secretary, and a warrant upon the school fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the president of such board, and countersigned by the secretary and shall specify for what purpose the same is drawn.

§ 804. The secretary shall report to the board annually, and at such other times as they may require, all matters pertaining to the expense, income, condition, and progress of the public schools of said city during the preceding year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such general rules and regulations for the government of and instruction in the schools, not inconsistent with the laws of the state, as may be established by the board of education. He shall attend the sessions of the board, and inform them at each session of the condition of the public schools, school-houses, school funds, and other matters connected therewith, and recommend such measures as he may deem necessary for the advancement of education in the city, and shall perform such other duties as may be required of him by the board. He shall receive as compensation for his services, payable out of the school fund, such sum as the board of education from time to time may allow.

§ 805. The entire revenue derived by such city from the state school fund and the state school tax shall be applied by said board of education exclusively to the support of primary and grammar schools.

ARTICLE VI.—JUDICIAL DEPARTMENT.

§ 806. A recorder's court is hereby established in such city, to be held by the recorder of such city, provided, that the provisions of this section as to the establishment of recorder's courts and recorders in such city shall not apply to any such city in which a city justice's court or a city justice of the peace is now or may hereafter be established, and any recorder's court now existing in any such last-mentioned city is hereby abolished. Said recorder's court shall have jurisdiction, concurrently with the justice's courts, of all actions and proceedings, civil and criminal, arising within the corporate limits of such city, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, of all actions founded upon any obligation or liability created by any ordinance, and of all prosecutions for any violation of any ordinance. In all civil actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, where the fine, penalty or forfeiture imposed by the ordinance is not more than fifty dollars, the trial must be by the court, in civil actions where the fine, penalty or forfeiture prescribed for the breach of any ordinance of such city is over fifty dollars, the defendant is entitled to a jury. Except as in this section otherwise provided, the rules of practice and mode of proceeding in said recorder's court shall be the same as are or may be prescribed by law for justices' courts in like cases, and appeals may be taken to the superior court of the county in which such city may be situated, from all judgments of said recorder's court in like manner and with like effect as in cases of appeals from justices' courts. [Amendment, Stats. 1905, 72.]

§ 807. The recorder shall be judge of the recorder's court, and shall have the

powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments. He shall be entitled to charge and receive for his services such fees as are or may be allowed by law to justices of the peace for like services, except that for his services in criminal prosecution for violation of ordinances he shall be entitled to receive only such monthly salary as the board of trustees shall by ordinance prescribe; which compensation, when once fixed, shall not be altered within two years.

§ 808. In all cases in which the recorder is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, the recorder may call in a justice of the peace residing in the city, to act in his place and stead; or if there be no justice of the peace residing in the city, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city may be situated.

ARTICLE VII.—MISCELLANEOUS PROVISIONS.

§ 810. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

§ 811. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any wilful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

§ 812. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

§ 813. The fire department of a city of the fifth class shall consist of companies of volunteer or paid firemen, as the board of trustees may determine, organized into engine, hose, or hook-and-ladder companies. Such fire department, except where the same comprises one or more companies of paid firemen, and such companies of volunteer firemen, shall elect their own officers: but the board of trustees shall appoint the chief and other officers of such department, where the same comprises one or more companies of paid firemen. The election of any person as chief of any such volunteer fire department shall be forthwith certified by the secretary of said department to the board of trustees of such city, and by them at their next regular meeting confirmed. The chief of the fire department shall give a bond to the chairman of the board of trustees of such city, in the sum of one thousand dollars; the chief of every fire department shall inquire into the cause of every fire occurring in the city, and keep a record thereof. He shall have exclusive control of the working of the fire department

in time of conflagration or fire. He must aid in the enforcement of all fire ordinances duly enacted, examine buildings in process of erection, report violation of ordinances relating to the prevention and extinguishment of fires when directed by the proper authorities, and institute proceedings therefor, and shall have general control, management, and direction of the fire companies, hose, hook-and-ladder companies, and engine, and fire departments of such city, and shall perform such other duties as may be by ordinances of said city, or by law, imposed upon him. His compensation, which shall not be less than ten dollars per month, must be fixed and paid by the board of city trustees. [Amendment, Stats. 1905, 16.]

CHAPTER VII.

MUNICIPAL CORPORATIONS OF THE SIXTH CLASS.

(A charter for cities and towns having a population of not exceeding three thousand.)

ARTICLE I.—GENERAL POWERS.

§ 850. Every municipal corporation of the sixth class shall be entitled the city (or town) of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city or town authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

ARTICLE II.—GENERAL PROVISIONS RELATING TO OFFICERS.

§ 851. The government of such city or town shall be vested in a board of trustees, to consist of five members; a clerk, who shall be ex officio assessor; a treasurer; a marshal, who shall be ex officio tax and license collector; a recorder, to be appointed by the board of trustees; and such subordinate officers as are hereinafter provided for. [Amendment, Stats. 1895, 266.]

§ 852. The members of the board of trustees and the clerk, treasurer, and marshal shall be elected by the qualified electors of said city or town at a general municipal election to be held therein on the second Monday in April in each even-numbered year. The clerk, treasurer, and marshal shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. Members of the board of trustees shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that the first board of trustees elected under the provisions of this act shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years and two at the expiration of four years. The board of trustees may, in their discretion, appoint an attorney, a poundmaster, a superintendent of streets, a civil engineer, and such police and other subordinate officers as in their judgment may be deemed necessary, and fix their compensation, which said officers shall hold office during the pleasure of said board.

§ 853. The clerk, treasurer, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city or

town in such penal sum as the board of trustees by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter *ex officio* incumbent; such bonds shall be approved by the board of trustees. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the board of trustees. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds, except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

§ 854. Any vacancy occurring in any of the offices provided for in this act shall be filled by appointment by the board of trustees; but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the board of trustees is absent from the city for the period of ninety days, unless by permission of the board of trustees, his office shall by the board be declared vacant, and the same filled as in case of other vacancies.

§ 855. The members of the board of trustees shall receive no compensation whatever. The clerk, treasurer, marshal, and recorder shall severally receive, at stated times, a compensation, to be fixed by ordinance by the board of trustees, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the board of trustees from fixing such several amounts of compensation in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the boards of trustees.

§ 856. All elections in such city or town shall be held in accordance with the general election laws of the state, so far as the same may be made applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceeding such election. The board of trustees shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish election precincts and polling-places, and may change the same. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county; provided, that he is otherwise entitled to vote.

§ 857. No person shall be eligible to or hold any elective office in such city, unless he be a resident and elector therein, and shall have resided in such city for one year next preceeding the date of such election. [Amendment became a law under constitutional provision without governor's approval, March 14, 1901. Stats. 1901, 293.]

ARTICLE III.—LEGISLATIVE DEPARTMENT.

§ 858. The board of trustees shall meet on the Monday next succeeding the date of said general municipal election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the president of the board, or by three trustees, by written notice delivered to each member, at least three hours before the time specified for the proposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

§ 859. At any meeting of the board of trustees a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The president of the board shall preside at all meetings of the board, and in case of his absence the board may appoint a president pro tempore; and in case of the absence of the clerk, the president or president pro tempore shall appoint one of the members of the board clerk pro tempore.

§ 860. The board of trustees shall judge of the qualifications of its members and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question, and entered on the journal.

§ 861. No ordinance, and no resolution granting any franchise for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter nor at any other than a regular meeting. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting. And no such ordinance, resolution, or order shall have any validity or effect unless passed by the votes of at least three trustees.

§ 862. The board of trustees of said city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city or town; provided, they shall not have power to sell or convey any portion of any water front.

3. To contract for supplying the city or town with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such city or the inhabitants, or for irrigating purposes therein.

4. To establish, build, and repair bridges; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, squares, and other public highways and places within the city or town, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in

part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places; and in the exercise of the powers herein granted to expend, in their discretion, the ordinary annual income and revenue of the municipality in payment of the costs and expenses of the whole or any part of such work or improvement.

5. To construct, establish, and maintain drains and sewers.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

7. To impose on and collect from every male inhabitant, between the ages of twenty-one and sixty years, an annual street poll-tax, not exceeding two dollars; and no other road poll-tax shall be collected within the limits of the city.

8. To impose and collect an annual license not exceeding two dollars on every male dog, and four dollars on every female dog owned or harbored within the limits of the city.

9. To levy and collect annually a property tax, which shall not exceed seventy-five cents on each one hundred dollars.

10. To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city or town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

11. To improve the rivers and streams flowing through such city or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the water front of the city; to construct and maintain embankments and other works, to protect such city from overflow; and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, lake, inlet, river, creek, slough, or arm of the sea within the corporate limits of such city or contiguous thereto, wharves, chutes, piers, breakwaters, bath-houses, and life-saving stations.

12. To erect and maintain buildings for municipal purposes.

13. To acquire, own, construct, maintain, and operate street railways, telephone and telegraph lines, gas and other works for light and heat; public libraries, museums, gymnasiums, parks, and baths, and to permit under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein.

14. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance; to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months.

15. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property, or works within the city.

16. To establish and maintain fire limits, and to regulate building and construction within the municipality.

17. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act. [Amendment, Stats. 1903, 93.]

§ 863. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of —— do ordain as follows." Every ordinance shall be signed by the president of the board of trustees, attested by the clerk, and published at least once in a newspaper published in such city or town, or printed and posted in at least three public places therein.

§ 864. All demands against such city or town shall be presented to and audited by the board of trustees, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the president of the board shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

§ 865. The board of trustees shall not create, audit, allow, or permit to accrue, any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; provided, that any city or town during the first year of its existence under this act may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it in such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

§ 866. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city or town, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually, by taxation, for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least two weeks in some newspaper published in such city or town; and no other question or matter shall be submitted to the electors at such election. If upon a canvass of the votes cast at such election it appears that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city or town, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the board of trustees, in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

§ 867. The violation of any ordinance of such city or town shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city or town in the name of the people of the state of California, or may be redressed by

civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the jail for such city or town; or if the board of trustees by ordinance shall so prescribe, in the county jail of the county in which such city or town may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such city or town.

§ 868. Every act or thing done or being within the limits of such city or town, which is or may be declared by law or by any ordinance of such city or town to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

§ 869. The board of trustees are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways, and public places of such city or town. The cost and expense incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city or town, removing obstructions therefrom; grading, paving, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full depth thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts; provided, that the board of trustees may expend from the general fund for said purposes a sum which in their judgment may be necessary. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings, or crossways at corners or intersection of streets, and the expense of establishing, building, and repairing bridges in such city or town, shall be paid by such city or town. The expense incurred in making and repairing sewers in any street shall be paid, one fourth by the owner of the lands on one side of said street, one fourth by the owner of the land[s] on the other side of said street, and one half by the city or town out of the sewer fund. In all the streets constituting the water front of such city or town, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said water front, or to such property of the city or town bounded thereon, shall be paid for by such city or town, but no contract for any such work shall be given except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work according to the provisions of this chapter. Whenever any expenses or costs of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Civil Procedure. Such suit shall be in the name of such city or town as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien

of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees.

§ 870. Whenever it shall become necessary for the city or town to take or damage private property for the purpose of establishing, laying out, extending and widening streets and other public highways and places within the city or town, or for the purpose of rights of way for drains, sewers and aqueducts, and for the purpose of widening, straightening or diverting the channels of streams, or the improvement of water fronts, or the acquisition or maintenance of public harbors, the trustees may direct proceedings to be taken under section twelve hundred and thirty-seven and following sections, to and including section twelve hundred and sixty-three of the Code of Civil Procedure, to procure the same. [Amendment, Stats. 1901, 12.]

§ 871. The board of trustees shall have the power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all city or town taxes not inconsistent with the provisions of this chapter. All taxes shall be collected by the marshal or treasurer, as may be determined by the board of trustees by ordinance. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed; every tax upon personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March of each year, and may be enforced by a sale of the real property affected, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by action in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within five years and upon the terms provided or that may hereafter be provided for the redemption of property sold for state taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state taxes. [Amendment, Stats. 1905, 89.]

[The amendatory act of 1895 also contained the following section: § 3. This act shall not repeal, or in any manner affect, modify, or interfere with the provisions of an act entitled "An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be allowed for such county officers for the services so rendered to such municipal corporations" approved March twenty-seventh, eighteen hundred and ninety five; or any of the provisions of an act entitled "An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state, except municipal corporations of the first, second, third and fourth classes, and cities operating under a charter framed under section eight, article eleven, of constitution," approved March second, eighteen hundred and ninety-one.]

§ 872. The board of trustees shall meet at their usual place of holding meetings on the second Monday of August of each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the clerk, who shall act as clerk of the board of equalization, as being the assessment roll for said tax, and shall be the assessment roll upon which such tax is to be levied in said year.

§ 873. Nothing in this chapter contained shall be construed to prevent any city or town having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll-tax, and from fines, penalties, and forfeitures, shall be paid into the general fund.

§ 874. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation, printed and published in such city or town, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period; such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject any and all bids presented and readvertise, in their discretion. The board of trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section. [Amendment, Stats. 1897, 89.]

§ 875. The president of the board of trustees shall preside over all meetings of the board at which he is present. In his absence a president pro tempore may be chosen. The president, and in his absence the president pro tempore, shall sign all warrants drawn on the treasurer, and shall sign all written contracts entered into by said city or town, as such president or president pro tempore. The authority and power of the president pro tempore shall continue only during the day on which he is chosen. The president and president pro tempore shall have power to administer oaths and affirmations, and take affidavits and testify the same under their hands. The president or president pro tempore shall sign all conveyances made by said city or town, and all instruments which shall require the seal of the city or town. The president is authorized to acknowledge the execution of all instruments executed by said city or town, that require to be acknowledged.

ARTICLE IV.—EXECUTIVE DEPARTMENT.

§ 876. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the clerk.

He shall pay out said money or warrants signed by the president and countersigned by the clerk, and not otherwise. He shall make quarterly settlements with the clerk. When no compensation has been allowed to him by the board of trustees, he shall be allowed one per centum on all moneys received and paid by him as such treasurer. He may credit himself with such per centum in his settlements with the clerk. Upon each quarterly settlement he shall file a statement of his account with the clerk. [Amendment, Stats. 1903, 336.]

§ 877. It shall be the duty of the assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city or town. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed, and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the clerk on or before the first Monday of August of each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of the city or town, over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of August in each year, deposit the same with the clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duty.

§ 878. It shall be the duty of the clerk to keep a full, true record of all the proceedings of the board of trustees and of the board of equalization. The proceedings of the board of trustees shall be kept in a book, marked "Records of the Board of Trustees." The proceedings of the board of equalization shall be kept in a separate book, marked "Records of the Board of Equalization." He shall keep a book, which shall be marked "City (or Town) Accounts," in which shall be entered as a credit all moneys received by the city or town for licenses, the amount of any tax when levied, and all other moneys when received, and in which shall be entered upon the debtor side all commissions deducted and all warrants drawn on the treasury. He shall also keep a book, marked "Marshal's Account," in which he shall charge the marshal with all the tax lists delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him, and with his commission for collecting. He shall also keep a book, marked "Treasurer's Account," in which he shall keep a full account of the transactions of the city or town with the treasurer. He shall also keep a book, marked "Licenses," in which he shall enter all licenses issued by him, the date thereof, to whom issued, for what, the time when it expires, and the amount paid. He shall also keep a book marked "Attorney's Account," and shall therein charge said attorney with all delinquent tax lists delivered to him, and shall credit him with money paid and delinquent tax lists returned. He shall keep a book, marked "Ordinances," into which he shall copy all city or town ordinances, with his certificate

annexed to said copy stating the foregoing ordinance is a true and correct copy of an ordinance of the city or town, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, shall be prima facie evidence of the contents of the ordinance and of the passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the board of trustees and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The clerk shall also keep a book, marked "Demands and Warrants," in which he shall note every demand against the city or town, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed, and a warrant drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll of any of the taxes of the city or town, and the levying of the tax thereon, the clerk shall apportion the taxes upon such assessment roll, and make out and deliver to the marshal a tax list in the usual form, taking his receipt therefor. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths or affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city or town, and certify the same without charge. He shall be the custodian of the seal of the city or town. He shall make a quarterly statement in writing, showing the receipts and expenditures of the city or town for the preceding quarter, and the amount remaining in the treasury. He shall at the end of every fiscal year make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city or town, which shall be published. He shall perform such other services as this act and the ordinances of the board of trustees shall require.

§ 879. It shall be the duty of the attorney to advise the city or town authorities and officers in all legal matters pertaining to the business of said city or town. He shall receive the delinquent list and receipt therefor; he is authorized to bring suit in the name of the city or town, in the proper court, for the collection of any tax; he shall receive for collecting taxes such per centum on the amount collected as may be provided by ordinance, which said per centum shall be collected of the delinquent taxpayers as provided by ordinance. In case a suit shall be brought in the superior court upon a tax upon real estate to sell such real estate for the purpose of paying such tax and costs, he shall be allowed, in addition to the said per centum, twenty-five dollars for each suit brought, to be taxed as costs in such suit, and not to be paid to said attorney unless collected of the defendant in such suit. Said attorney shall receive such other compensation as may be allowed by the board of trustees.

§ 880. The department of police of said city or town shall be under the direction and control of the marshal; and for the suppression of any riot, public

tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by laws of the state, and shall in all respects be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police officers, and watchmen in said city or town, and every citizen shall also lend his aid, when required, for the arrest of offenders and maintenance of public order. He shall, and is hereby authorized to, execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute before the recorder all breaches or violations of or non-compliance with any ordinance which shall come to his knowledge. He shall collect all taxes levied by the board of trustees, except as herein provided. He shall, at the expiration of any month, pay to the treasurer all taxes and other funds of said city or town collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the clerk, and shall, upon depositing with the clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all licenses, and collect the same. He shall have charge of the prison and prisoners, and of any chain-gang which may be established by the board of trustees. He shall for service of any process receive the same fees as constables, but his fees for services in any criminal action or proceeding upon process issued from the recorder's court shall not be a charge against the county. He may appoint, subject to the approval of the board of trustees, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which shall be the same as those allowed to the marshal. He may also, with the concurrence of the president of the board of trustees, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the board of trustees shall require, and shall receive such compensation as shall be fixed by ordinance. [Amendment, Stats. 1903, 135.]

§ 881. The board of trustees shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers, and fix their compensation.

ARTICLE V.—JUDICIAL DEPARTMENT.

§ 882. A recorder's court is hereby established in such city or town, to be held by the recorder of such city or town. Said recorder's court shall have jurisdiction, concurrently with the justices' courts, of all actions and proceedings, civil and criminal, arising within the corporate limits of such city or town, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city or town, of all actions founded upon any obligation created by any ordinance, and of all prosecutions for any violation of any ordinance. In all civil actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city or town, where the fine, penalty or forfeiture imposed by the ordi-

nance is not more than fifty dollars, the trial must be by the court, in civil actions where the fine, penalty or forfeiture prescribed for the breach of any ordinance of such city or town is over fifty dollars, the defendant is entitled to a jury. Except as in this section otherwise provided, the rules of practice and mode of proceeding in said recorder's court shall be the same as are or may be prescribed by law for justices' courts in like cases; and appeals may be taken to the superior court of the county in which such city or town may be situated, from all judgments of said recorder's court, in like manner and with like effect as in cases of appeals from justices' courts. [Amendment, Stats. 1905, 72, 73.]

§ 883. The recorder shall be judge of the recorder's court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments. He shall be entitled to charge and receive for his services such fees as are or may be allowed by law for justices of the peace for like services, except that for his services in criminal prosecutions for violation of ordinances he shall be entitled to receive only such fees as the board of trustees shall by ordinance prescribe; but his fees for services in any criminal case shall not be a charge against the county. [Amendment, Stats. 1901, 269.]

§ 884. In all cases in which the recorder is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, the recorder may call in a justice of the peace residing in the city or town to act in his place and stead; or if there be no justice of the peace residing in the city or town, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city or town may be situated.

ARTICLE VI.—MISCELLANEOUS PROVISIONS.

§ 885. Every officer collecting or receiving any moneys belonging to or for the use of such city or town shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

§ 886. No officer of such city or town shall be interested, directly or indirectly, in any contract with such city or town, or with any of the officers thereof in their official capacity, or in doing any work or furnishing any supplies for the use of such city or town, or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any wilful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

MUNICIPAL CORPORATIONS—Justices of the Peace in.—See KERR'S CYC. CODE CIV. PROC. § 103.

Powers of State Board of Health in.—See KERR'S CYC. POL. CODE § 2984.

DECISIONS.—Stats. 1883, 93, ch. XLIX.—§ 2—Borchard vs. Supervisors, 144 Cal. 10, 14, 77 Pac. Rep. 708. §§ 2, 4—Page vs. Board Supervisors, 85 Cal. 50, 51, 24 Pac.

Rep. 607; People ex rel. Boardman vs. Town Linden, 107 Cal. 94, 97, 40 Pac. Rep. 115; People vs. Town Berkeley, 102 Cal. 293, 304, 36 Pac. Rep. 591, 23 L. R. A. 838. §§ 2, 861—Derby vs. City Modesto, 104 Cal. 515, 518, 38 Pac. Rep. 900. § 3—People ex rel. Beasley vs. Town Sausalito, 106 Cal. 500, 501, 39 Pac. Rep. 937. § 7—People ex rel. Adams vs. City Oakland, 92 Cal. 611, 612, 28 Pac.

Rep. 807. §8—People ex rel. Cuff vs. City Oakland, 123 Cal. 598, 601, 56 Pac. Rep. 445. §§8, 62—Montgomery vs. Santa Ana N. R. Co., 104 Cal. 186, 192, 43 Am. St. Rep. 89, 37 Pac. Rep. 786, 25 L. R. A. 654. §§40 et seq., 247, 410, 570, 670, 795—Board Education vs. Board Trustees, 129 Cal. 599-605, 62 Pac. Rep. 173. §§601, 621—People ex rel. Johnson vs. Bagley, 85 Cal. 343, 345, 24 Pac. Rep. 716. §628—Capron vs. Hitchcock, 98 Cal. 427, 429, 33 Pac. Rep. 431. §727—Electric L. Co. vs. San Bernardino, 100 Cal. 348, 34 Pac. Rep. 819. §§754, 854—People ex rel. Webster vs. Babcock, 123 Cal. 307, 310, 55 Pac. Rep. 1017. §755—Marquis vs. City Santa Ana, 103 Cal. 661, 665, 37 Pac. Rep. 650. §§755, 880—Pritchett vs. Stanislaus Co., 73 Cal. 310, 312, 14 Pac. Rep. 795. §761—City Santa Ana vs. Brunner, 132 Cal. 234, 238, 64 Pac. Rep. 287. §763—McBean vs. City Fresno, 112 Cal. 159, 163, 53 Am. St. Rep. 191, 44 Pac. Rep. 358, 31 L. R. A. 794. §764—Higgins vs. Cole, 100 Cal. 260, 34 Pac. Rep. 678; Brown vs. City Visalia, 141 Cal. 372, 373, 74 Pac. Rep. 1042; Chico High School Board vs. Supervisors, 118 Cal. 115, 120, 50 Pac. Rep. 275. §§764-806—City Tulare vs. Hevren, 126 Cal. 226, 58 Pac. Rep. 580; Denninger vs. Recorder's Court, 145 Cal. 629, 633, 79 Pac. Rep. 364. §798—Brown vs. City Visalia, 141 Cal. 372, 374, 74 Pac. Rep. 1042. §811—Crossman vs. Kenniston, 97 Cal. 379, 380, 32 Pac. Rep. 448. §852—City Sonora vs. Curtin, 137 Cal. 583, 584, 70 Pac. Rep. 674. §§853, 876—City Healdsburg vs. Mulligan, 113 Cal. 205, 211, 45 Pac. Rep. 337, 33 L. R. A. 461. §855—Mundell vs. City Pasadena, 87 Cal. 520, 522, 25 Pac. Rep. 1061. §862 (Amd't 1885)—In re Lawrence, 69 Cal. 608, 610, 11 Pac. Rep. 217; South Pasadena vs. Terminal R. Co., 109 Cal. 315, 319, 41 Pac. Rep. 1093; Ex parte Jackson, 143 Cal. 564-574, 77 Pac. Rep. 457; Ex parte Helm, 143 Cal. 553-555, 77 Pac. Rep. 453; Ex parte Lemon, 143 Cal. 558, 560-563, 77 Pac. Rep. 455. §862, subd. 3—Irwin vs. Exton, 125 Cal. 622, 626, 58 Pac. Rep. 257. §862, subd. 4—Hammond vs. San Leandro, 135 Cal. 450, 452, 67 Pac. Rep. 692. §864—Adams vs. City Modesto, 131 Cal. 501, 502, 63 Pac. Rep. 1083. §865—Rice vs. Board Trustees, 107 Cal. 398, 400, 40 Pac. Rep. 551. §869—Town Mill Valley vs. House, 142 Cal. 698, 700, 76 Pac. Rep. 658. §870—Johnson vs. Goodyear Min. Co., 127 Cal. 4, 16, 17, 78 Am. St. Rep. 17, 59 Pac. Rep. 304, 47 L. R. A. 338; Pasadena vs. Stimson, 91 Cal. 238, 248, 27 Pac. Rep. 604. §871—Town Dixon vs. Mayes, 72 Cal. 166, 167, 13 Pac. Rep. 471; Carpenter vs. Shinnars, 108 Cal. 359, 360, 41 Pac. Rep. 473. §882—Town Haywards vs. Pimental, 107 Cal. 356, 387, 40 Pac. Rep. 545.

Same—Statute generally.—San Diego Charter—People vs. Gunn, 85 Cal. 238, 243, 24 Pac. Rep. 718. Street Imp. S. F.—Thomason vs. Ashworth, 73 Cal. 73, 85, 14 Pac. Rep. 615. Laundry, Modesto—In re Hang Kie, 69 Cal. 149, 151, 10 Pac. Rep. 327. Exclusion—People vs. City Coronado, 100 Cal. 571, 573, 35 Pac. Rep. 162. Charter—City Stockton vs. Western F. & M. Ins. Co., 73 Cal. 621, 622, 15 Pac. Rep. 314. Police Courts—People vs. Henshaw, 76 Cal. 436,

451, 18 Pac. Rep. 413. Board Education—Kennedy vs. Miller, 97 Cal. 429, 434, 32 Pac. Rep. 558. School Department—In re Wetmore, 99 Cal. 146, 150, 33 Pac. Rep. 769. Justice's Court—Milner vs. Reibenstein, 85 Cal. 593, 595, 24 Pac. Rep. 935. Chapter VII—Bishop vs. Superior Court, 87 Cal. 226, 229, 25 Pac. Rep. 435. Fifth Class—Ex parte Green, 94 Cal. 387, 389, 29 Pac. Rep. 783. Officer—White vs. City Alameda, 124 Cal. 95, 97, 56 Pac. Rep. 795. San Francisco—Popper vs. Broderick, 123 Cal. 456, 460, 56 Pac. Rep. 53. Fees—Rauer vs. Williams, 118 Cal. 401, 403, 50 Pac. Rep. 691. Water Rates—Morton vs. Broderick, 118 Cal. 474, 487, 50 Pac. Rep. 644. Disincorporation—Mintzer vs. Schilling, 117 Cal. 361, 49 Pac. Rep. 209. Sixth Class—Ex parte Roach, 104 Cal. 272, 274, 37 Pac. Rep. 1044.

Stats. 1885, 127, ch. CXXXVIII, §862.—In re Lawrence, 69 Cal. 608, 610, 11 Pac. Rep. 217; Redondo Beach vs. Cate, 136 Cal. 146, 148, 68 Pac. Rep. 586.

Stats. 1889, 371, ch. CCLI (Sixth Class).—§§1, 2—People ex rel. Boardman vs. Town Linden, 107 Cal. 94, 98, 40 Pac. Rep. 115. §2—Borchard vs. Supervisors, 144 Cal. 10, 14, 77 Pac. Rep. 708. §3—Law vs. San Francisco, 144 Cal. 384, 393, 77 Pac. Rep. 1014. §870—City Pasadena vs. Stimson, 91 Cal. 238, 256, 27 Pac. Rep. 604. Light—Hammond vs. City San Leandro, 135 Cal. 450, 67 Pac. Rep. 692.

Stats. 1891, 28, ch. XLIII.—§795—Chico High School Board vs. Supervisors, 118 Cal. 115, 121, 50 Pac. Rep. 275. §795—Board Education vs. Board Trustees, 129 Cal. 599, 602, 603, 62 Pac. Rep. 173.

Stats. 1891, 54, ch. LVIII, §777.—Electric L. Co. vs. San Bernardino, 100 Cal. 348, 351, 34 Pac. Rep. 819.

Stats. 1891, 196, ch. CXLVII.—§9—Hornung vs. McCarthy, 126 Cal. 17, 23, 58 Pac. Rep. 303. §34—Frenna vs. Sunnyside L. Co., 124 Cal. 437, 438, 57 Pac. Rep. 302.

Same—Statute generally.—Porphyry P. Co. vs. Ancker, 104 Cal. 340, 341, 37 Pac. Rep. 1050; Hellman vs. Shoulters, 114 Cal. 153, 44 Pac. Rep. 915, 45 Pac. Rep. 1057; Sievers vs. San Francisco, 115 Cal. 648, 652, 56 Am. St. Rep. 153, 47 Pac. Rep. 687; Perine Cont. etc. Co. vs. Pasadena, 116 Cal. 6, 8, 47 Pac. Rep. 777; Witter vs. Bachman, 117 Cal. 318, 319, 49 Pac. Rep. 202; San Diego I. Co. vs. Shaw, 129 Cal. 273, 274, 61 Pac. Rep. 1082; Duncan vs. Ramish, 142 Cal. 686, 691, 76 Pac. Rep. 661; Town Mill Valley vs. House, 142 Cal. 698, 700, 76 Pac. Rep. 658.

Stats. 1891, 233, CLXIII, §862, subd. 11.—City San Pedro vs. Southern Pac. R. Co., 101 Cal. 333, 335, 35 Pac. Rep. 993.

Stats. 1891, 461, ch. CXXIV.—Hellman vs. Shoulters, 114 Cal. 136, 154, 44 Pac. Rep. 915, 45 Pac. Rep. 1057; Witter vs. Mission School Dist., 121 Cal. 350, 351, 66 Am. St. Rep. 33, 53 Pac. Rep. 905.

Stats. 1893, 33, ch. XXI.—Porphyry P. Co. vs. Ancker, 104 Cal. 340, 341, 37 Pac. Rep. 1050; Los Angeles L. Co. vs. Los Angeles, 106 Cal. 156, 158, 39 Pac. Rep. 535; Ramish vs. Hartwell, 126 Cal. 443, 444, 58 Pac. Rep. 920. §2—O'Dea vs. Mitchell, 144 Cal. 374, 379, 77 Pac. Rep. 1020. §§4, 5—German Sav.

& L. Soc. vs. Ramish, 138 Cal. 120, 124, 125, 69 Pac. Rep. 89, 70 Pac. Rep. 1067.

Stats. 1893, 89, ch. LXXIX, §§ 38, 39.—German Sav. & L. Soc. vs. Ramish, 138 Cal. 120, 126-129, 69 Pac. Rep. 89, 70 Pac. Rep. 1067.

Same — Generally.—Duncan vs. Ramish, 142 Cal. 686, 693, 76 Pac. Rep. 661; Town Mill Valley vs. House, 142 Cal. 698, 700, 76 Pac. Rep. 658; O'Dea vs. Mitchell, 144 Cal. 374, 382, 383, 77 Pac. Rep. 1020.

Stats. 1893, 172, ch. CXLIV.—Fletcher vs. Prather, 102 Cal. 413, 417, 36 Pac. Rep. 658. § 2—Town Mill Valley vs. House, 142 Cal. 698, 700, 76 Pac. Rep. 658.

Stats. 1897, 175, ch. CXV, § 862.—Redondo Beach vs. Cate, 136 Cal. 146, 148, 68 Pac. Rep. 586.

Stats. 1901, 656, ch. CCXVIII, § 764.—Ex parte Pfirrmann, 134 Cal. 143, 149, 66 Pac. Rep. 205.

As to Municipal Affairs, see People ex rel. Lawlor vs. Williamson, 135 Cal. 415, 67 Pac. Rep. 504; Weaver vs. Reddy, 135 Cal. 430, 67 Pac. Rep. 683.

See tit. **Police Courts.**

As to Issue of bonds by, special statutes are omitted here.

As to plumbing, drainage, etc., see tit. **Health—Public.**

As to various matters pertaining to municipal corporations, see tits. **Bicycles—License; Bonds; Gifts and Donations; High Schools; Holidays; Hours of Labor; Libraries; Lodging-Houses; Police Courts; Prostitution; Public Buildings; Public Service; Public Work; Railroads—Street; Street Law; Townsites—Public Lands; Trees and Hedges; Wages.**

Hospitals.—It is believed that the statute of 1897, 9, ch. XIII, relating to cities of the first class, is controlled by San Francisco charter (Stats. 1899, 241, § 3, art. X, 343).

PARTICULAR TOWNS AND CITIES.

[There are certain laws of a public nature affecting some of the municipalities for which consult the general index. Instance: "Oakland—grant of salt-marsh and tide lands"—is given in full under the general title Oakland.]

Alameda.—Incorporated under general law of 1883, in 1884, fifth class.

Alhambra.—Incorporated under general law of 1883, in 1903, sixth class.

Alturas.—Name changed from Norris Bridge, Stats. 1876, 513.

Alviso.—Incorporated, Stats. 1852, 222; lands conveyed to, Stats. 1862, 73.

Anaheim.—Incorporated under general law of 1883, in 1888, sixth class.

Antioch.—Incorporated under general law of 1883, in 1890, sixth class.

Arcadia.—Incorporated under general law of 1883, in 1903, sixth class.

Arcata.—Incorporated as Union, Stats. 1858, 7; name changed to Arcata, Stats. 1860, 109; charter amended, Stats. 1874, 280.

Auburn.—Incorporated under general law of 1883, in 1888, sixth class; removal of cemetery, establishing park, Stats. 1895, 109.

Azusa.—Incorporated under general law of 1883, in 1898, sixth class.

Bakersfield.—Incorporated under general law of 1883, in 1898, fifth class.

Belvedere.—Incorporated under general law of 1883, in 1896, sixth class.

Benicia.—Granting certain lands to, Stats. 1855, 239; to settle land titles in, Stats. 1865-6, 107; to purchase public square, Stats. 1874, 708; incorporated under general law of 1883, in 1886, sixth class. As to land grant of 1855, see Shirley vs. City Benicia, 118 Cal. 344, 50 Pac. Rep. 404.

Berkeley.—Freeholder charter, Stats. 1895, 409; justice's court for, see list of **Unconstitutional Statutes.**

Biggs.—Incorporated under general law of 1883, in 1903, sixth class.

Bishop.—Incorporated under general law of 1883, in 1903, sixth class.

Black Diamond.—Incorporated under general law of 1883, in 1903, sixth class.

Boulder Creek.—Incorporated under general law of 1883, in 1902, sixth class.

Brooklyn.—Incorporated, Stats. 1869-70, 680; 1872, 409.

Callistoga.—Incorporated under general law of 1883, in 1886, sixth class.

Chico.—Incorporated under general law of 1883, in 1895, fifth class.

Cloverdale.—Incorporated under general law of 1883, in 1888, sixth class.

Coloma.—Incorporated, Stats. 1858, 207.

Colton.—Incorporated under general law of 1883, in 1887, sixth class.

Colusa.—Reincorporated, Stats. 1876, 669; bridge at, over Sacramento River, Stats. 1877-8, 241.

Compton.—Incorporated under general law of 1883, in 1888, sixth class.

Concord.—Incorporated under general law of 1883, in 1905, sixth class.

Corona.—Incorporated under general law of 1883, in 1896, sixth class.

Coronado.—Incorporated under general law of 1883, in 1890, sixth class.

Covina.—Incorporated under general law of 1883, in 1901, sixth class.

Crescent City.—Townsite grant, Stats. 1859, 24; 1860, 279; 1862, 226; water front ceded to, Stats. 1867-8, 335; 1869-70, 131; incorporated under general law of 1883, in 1885, sixth class.

Dixon.—Incorporated under general law of 1883, in 1884, sixth class.

Downieville.—Statutes of incorporation repealed, Stats. 1901, 276.

El Monte.—Name of Lexington changed to, Stats. 1876, 850.

Elsinore.—Incorporated under general law of 1883, in 1891, sixth class.

Emeryville.—Incorporated under general law of 1883, in 1896, sixth class.

Esecondido.—Incorporated under general law of 1883, in 1888, sixth class.

Etna.—Name Rough and Ready changed to, Stats. 1874, 346; incorporated under general law of 1883, in 1904, sixth class.

Eureka, City.—Water front ceded to, Stats. 1857, 76; freeholder charter, Stats. 1895, 355.

Fairfield.—Incorporated under general law of 1883, in 1903, sixth class.

Felton.—Incorporated, Stats. 1878, 185.

Ferndale.—Incorporated under general law of 1883, in 1893, sixth class.

Fort Bragg.—Incorporated under general law of 1883, in 1889, sixth class.

Fort Jones.—Incorporated under general law of 1883, in 1904, sixth class.

Fresno.—Freeholder charter, Stats. 1901, 832.

Fullerton.—Incorporated under general law of 1883, in 1904, sixth class.

Gilroy.—Incorporated, Stats. 1870, 263; 1872, 356; 1876, 742.

Grass Valley.—Freeholder charter, Stats. 1893, 628.

Hanford.—Incorporated under general law of 1883, in 1891, sixth class.

Haywards.—Incorporated under general law of 1883, in 1892, sixth class.

Healdsburg.—Incorporated under general law of 1883, in 1883, sixth class.

Hercules.—Incorporated under general law of 1883, in 1900, sixth class.

Hollister.—Incorporated under general law of 1883, in 1901, sixth class.

Hollywood.—Incorporated under general law of 1883, in 1903, sixth class.

Hornitos.—Incorporated, Stats. 1861, 118; 1867-8, 195; 1869-70, 471.

Imperial.—Incorporated under general law of 1883, in 1904, sixth class.

Kelseyville.—Incorporated under general law of 1883, in 1888, sixth class.

Kern.—Incorporated under general law of 1883, in 1893, sixth class.

Lakeport.—Incorporated under general law of 1883, in 1888, sixth class.

Lemoore.—Incorporated under general law of 1883, in 1900, sixth class.

Lexington.—El Monte, name changed, Stats. 1875-6, 854.

Lincoln.—Incorporated under general law of 1883, in 1890, sixth class.

Linden.—Incorporated under general law of 1883, in 1893, sixth class.

Livermore.—Incorporated under general law of 1883, in 1900, sixth class.

Lodi.—Mokelumne, changed to, Stats. 1874, 690.

Lompoc.—Incorporated under general law of 1883, in 1888, sixth class.

Long Beach.—Incorporated under general law of 1883, in 1897, sixth class.

Los Angeles City.—First charter, Stats. 1850, 155; freeholder charter, Stats. 1889, 455; 1903, 555; library established, Stats. 1874, 374. Water history, see Los Angeles vs. Pomeroy, 124 Cal. 597, 57 Pac. Rep. 585; 125 Cal. 420, 58 Pac. Rep. 69; 132 Cal. 340, 64 Pac. Rep. 477; 133 Cal. 529, 65 Pac. Rep. 1049. Funded debt, see **TABLE OF STATUTES HELD UNCONSTITUTIONAL.**

Los Gatos.—Incorporated under general law of 1883, in 1887, sixth class.

Loyalton.—Incorporated under general law of 1883, in 1901, sixth class.

Markleeville.—Incorporated, Stats. 1863-4, 441.

Martinez.—Incorporated under general law of 1883, in 1884, sixth class.

Marysville.—Conveyance of state reform school property to, Stats. 1872, 825; levee, Stats. 1876, 131; police court, see **TABLE OF**

UNCONSTITUTIONAL STATUTES; reincorporation of, Stats. 1876, 149; 1878, 593.

Mayfield.—Incorporated under general law of 1883, in 1903, sixth class.

Meadow Lake.—Incorporated, Stats. 1866, 372.

Menlo Park.—Incorporation repealed, Stats. 1876, 400.

Merced City.—Incorporated under general law of 1883, in 1889, sixth class.

Mill Valley.—Incorporated under general law of 1883, in 1900, sixth class.

Modesto.—Incorporated under general law of 1883, in 1884, sixth class.

Mokelumne (San Joaquin County).—Name changed to Lodi, Stats. 1874, 690.

Mokelumne Hill (Calaveras County).—Fire limits established, Stats. 1872, 626.

Monrovia.—Incorporated under general law of 1883, in 1887, sixth class.

Monterey, City of.—Former incorporation acts repealed, Stats. 1889, 227; incorporated under general law of 1883, in 1889, sixth class.

Mountain View.—Incorporated under general law of 1883, in 1902, sixth class.

Napa City.—Freeholder charter, Stats. 1893, 641.

National City.—Incorporated under general law of 1883, in 1887, sixth class.

Nevada City.—Incorporated, Stats. 1878, 221.

New Republic.—Name changed to Santa Rita, Stats. 1873-4, 823.

Oakland.—Freeholder charter, Stats. 1889, 513; 1895, 353; use of plaza for county buildings, Stats. 1874, 58; grant of marsh lands to, Stats. 1874, 132; canal for Oakland harbor, Stats. 1876, 862; 1878, 113.

Ocean Park.—Incorporated under general law of 1883, in 1904, sixth class.

Oceanside.—Incorporated under general law of 1883, in 1888, sixth class.

Oleta.—Name Fiddleton changed to, Stats. 1878, 109.

Ontario.—Incorporated under general law of 1883, in 1891, sixth class.

Orange.—Incorporated under general law of 1883, in 1888, sixth class.

Oroville.—A charter of 1857 was repealed, Stats. 1859, 32; to prohibit hogs running at large, Stats. 1872, 510; fire department and water supply, Stats. 1878, 796.

Oxnard.—Incorporated under general law of 1883, in 1903, sixth class.

Pacific Grove.—Incorporated under general law of 1883, in 1883, sixth class.

Palo Alto.—Incorporated under general law of 1883, in 1894, sixth class.

Pasadena.—Freeholder charter, Stats. 1901, 885.

Paso de Robles.—Incorporated under general law of 1883, in 1889, sixth class.

Petaluma.—Incorporated under general law of 1883, in 1884, fifth class.

Pinole.—Incorporated under general law of 1883, in 1903, sixth class.

Placerville.—Townsite, Stats. 1874, 754; raceway, Stats. 1876, 805; acted for a number of years under Stats. 1885, 136, through a commission; incorporated under general law of 1883, in 1903, sixth class.

Pleasanton.—Incorporated under general law of 1883, in 1894, sixth class.

Pomona.—Incorporated under general law of 1883, in 1888, fifth class.

Porterville.—Incorporated under general law of 1883, in 1902, sixth class.

Potter Valley.—Incorporated under general law of 1883, in 1890, sixth class.

Red Bluff.—Incorporated under general law of 1883, in 1895, sixth class.

Redding.—Incorporated under general law of 1883, in 1887, sixth class.

Redlands.—Incorporated under general law of 1883, in 1888, sixth class.

Redondo Beach.—Incorporated under general law of 1883, in 1892, sixth class.

Redwood City.—Incorporated under general law of 1883, in 1897, sixth class.

Rio Vista.—Incorporated under general law of 1883, in 1894, sixth class.

Riverside.—Incorporated under general law of 1883, in 1885, sixth class.

Rocklin.—Incorporated under general law of 1883, in 1893, sixth class.

Sacramento City.—Freeholder charter, Stats. 1893, 545.

Salinas City.—Freeholder charter, Stats. 1903, 599.

San Bernardino.—Freeholder charter, Stats. 1905, 940; grant to of state interest in lands, Stats. 1872, 363; transcribing of records of, Stats. 1876, 853.

San Buenaventura.—Incorporated, Stats. 1876, 534; 1878, 537.

San Diego.—Pueblo lands, deeds to confirmed, Stats. 1869-70, 409; confirming other conveyances, Stats. 1872, 309; 1874, 85; granting Masonic Cemetery, Stats. 1874, 40; to convey land to United States, Stats. 1876, 154; freeholder charter, Stats. 1889, 643.

San Francisco.—Water front, Stats. 1872, 728; 1876, 905; 1878, 263; 1878, 417; 1880, 10; 1880, 132; 1901, 627; (railroads on) 1889, 379, 388, amending 1878 and 1880; 1891, 233; 1895, 70, 194. As to Stats. 1878, 417, see Ford vs. Harbor Commissioners, 81 Cal. 19, 29, 22 Pac. Rep. 278; public reservations in, Stats. 1874, 333; 1878, 966; revenue system, Political Code applied to, Stats. 1872, 773; ferry depot, construction of, Stats. 1891, 110; freeholder charter, Stats. 1899, 241; law library, stats. 1869-70, 235; 1880, 194.

San Jacinto.—Incorporated under general law of 1883, in 1888, sixth class.

San Jose.—Freeholder charter, Stats. 1897, 592.

San Juan.—Incorporated under general law of 1883, in 1896, sixth class.

San Leandro.—Incorporated under general law of 1883, in 1892, sixth class.

San Luis Obispo.—Incorporated under general law of 1883, in 1884, sixth class.

San Mateo.—Incorporated under general law of 1883, in 1894, sixth class.

San Pedro.—Incorporated under general law of 1883, in 1888 and 1905.

San Rafael.—Incorporated under general law of 1883, in 1889, sixth class.

Santa Ana.—Incorporated under general law of 1883, in 1888, fifth class.

Santa Barbara.—Confirming deed to plaza,

Stats. 1872, 282; same to cemetery, Stats. 1876, 572; freeholder charter, Stats. 1899, 448.

Santa Clara.—Authorized to take certain lands, Stats. 1872, 306; authorized to convey public square, Stats. 1876, 569; incorporated, Stats. 1872, 251; 1874, 591.

Santa Cruz.—Incorporated, Stats. 1872, 471; 1876, 169; 1878, 870.

Santa Monica.—Incorporated under general law of 1883, in 1886, sixth class; in 1902, fifth class.

Santa Paula.—Incorporated under general law of 1883, in 1901, fifth class; 1902, sixth class.

Santa Rita.—Name New Republic changed to, Stats. 1874, 823.

Santa Rosa.—Freeholder charter, Stats. 1905, 867.

Sausalito.—Incorporated under general law of 1883, in 1893, sixth class.

Sebastopol.—Incorporated under general law of 1883, in 1902, sixth class.

Selma.—Incorporated under general law of 1883, in 1893, sixth class.

Shasta.—To prevent hogs running at large, Stats. 1872, 157; but see Stats. 1875-6, 644; 1878, 85; and see tit. **Estrays**; conveyance of townsite lots, Stats. 1868, 74.

Sonoma.—Commissioners to sell land, Stats. 1872, 239; 1878, 633; validating acts of commissioners, Stats. 1881, 25; incorporated under general law of 1883, in 1883, sixth class.

Sonora.—Incorporated under general law of 1883, in 1890, sixth class.

South Pasadena.—Incorporated under general law of 1883, in 1888, sixth class; annexation of territory, certificate filed 1889.

Stockton.—Confirming deed, exchange of land, Stats. 1877-8, 201; purchase of hospital farm, Stats. 1877-8, 922; maintain open canal, Stats. 1887, 109; freeholder charter, Stats. 1889, 577.

St. Helena.—Incorporated under general law of 1883, in 1889, sixth class.

Suisun.—Incorporated under general law of 1883, in 1884, sixth class.

Susanville.—Incorporated under general law of 1883, in 1900, sixth class.

Sutter Creek.—Incorporated, Stats. 1874, 887; 1876, 40.

Tulare City.—Incorporated under general law of 1883, in 1888, fifth class.

Ukiah.—Incorporated under general law of 1883, in 1886, sixth class.

Union.—Settling land titles, Stats. 1853, 151. See **Arcata**.

Vacaville.—Incorporated under general law of 1883, in 1892, sixth class.

Vallejo.—Freeholder charter, Stats. 1899, 370.

Visalia.—Confirming titles to town lots, Stats. 1878, 363; incorporated under general law of 1883, in 1900, fifth class.

Watsonville.—Freeholder charter, Stats. 1903.

Wheatland.—Incorporated under general law of 1883, in 1891, sixth class.

Whittier.—Incorporated under general law of 1883, in 1898, sixth class.

Willits.—Incorporated under general law of 1883, in 1888, sixth class.

Willows.—Incorporated under general law of 1883, in 1886, sixth class.

Wilmington.—Incorporated, Stats. 1872, 108, 446; repealed Stats. 1887, 108. See **San Pedro**.

Winters.—Incorporated under general law of 1883, in 1898, sixth class.

Woodland.—Incorporated under general law of 1883, in 1890, fifth class.

Yreka.—Incorporated under general law of 1883, in 1888, sixth class.

Yuba City.—Incorporated, Stats. 1878, 785.

MUNICIPAL CORPORATIONS—CEMETERIES.

Authorizing municipalities of less than the first class to obtain, by purchase, donation, or devise, lands for cemetery purposes; and authorizing the board of trustees of said municipalities to make all necessary rules and regulations for the government and disposition of the same.

(Stats. 1899, 22, ch. XXI.)

§ 1. Cities and towns of less than the first class are hereby authorized to purchase, or receive by donation or devise and dispose of, all and any necessary property for cemetery purposes.

§ 2. The board of trustees or other governing body of said municipalities shall make all necessary rules and regulations for the government, embellishment, and disposition of the same.

§ 3. The boards of trustees or other governing body of said municipalities shall, by ordinance, prescribe the method and conditions by which burial lots may be sold in said cemetery, and may authorize any officer of the municipality to execute conveyances in behalf of said municipality, subject to the restrictions that may be deemed proper.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. This act shall take effect immediately.

See tit. **Cemeteries**.

MUNICIPAL CORPORATIONS—CENSUS.

To authorize any city or city and county of this state to take its census.

(Stats. 1897, 28, ch. XXX.)

§ 1. The council, or other legislative body of any city in this state, and the board of supervisors, or other legislative body of any city and county of this state, is hereby authorized, whenever said council, board of supervisors, or other legislative body, may deem it necessary, between the years of taking the federal census, to take the census of such city, or city and county, in the manner prescribed by section two of this act.

§ 2. Said council, board of supervisors, or other legislative body of any city, or city and county of this state electing to take a census, as in this act provided for, shall pass a resolution of intention declaring its intention to cause such census to be taken by one or more suitable persons appointed therefor by such council, board of supervisors, or other legislative body, at the expense of said city or cities desiring such census taken, and such census shall, by such persons so appointed, be taken of all the inhabitants of such city, or city and county, and in said census the full name of each person shall be plainly written and the names alphabetically arranged and regularly numbered in one

complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the clerk of such city, or city and county.

§ 3. A certified copy of such census shall be prepared by said clerk after being so filed, and shall be filed by him with the secretary of state for this state, and thereupon the same shall be known and be the official state census of said city, or city and county.

§ 4. This act shall take effect and be in force from and after its passage.

In re Mitchell, 120 Cal. 384, 385, 52 Pac.Rep. 799.

MUNICIPAL CORPORATIONS—ASSEMBLY HALLS.

Authorizing cities, towns, and municipal corporations to establish and maintain public assembly or convention halls, and to incur indebtedness for such improvements.

(Stats. 1903, 412, ch. CCLXXXVI.)

§ 1. Any city, town, or municipal corporation in this state may acquire, by purchase, condemnation, or otherwise, all necessary land whereon to construct, and may construct and maintain thereon, a public assembly or convention hall, and may incur indebtedness, as hereinafter provided, to pay the cost of such improvement.

§ 2. Whenever the legislative body of any city, town, or municipal corporation shall, by resolution passed by a vote of a majority of its members, determine that the public interest or necessity demands the acquisition of the necessary land whereon to construct, and the construction or completion thereon, of a public assembly or convention hall, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality, it may, at any subsequent meeting of such body, by an ordinance, passed by a vote of two thirds of all its members, call a special election, and submit to the qualified voters of said municipality, the proposition of incurring a debt for the purpose set forth in said resolution. The ordinance calling such special election shall recite the object and purpose for which the indebtedness is proposed to be incurred, the estimated cost of the proposed improvement, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness; and shall fix the date on which such special election will be held, the manner of holding such election, and of voting for or against such proposition; and in all other particulars not recited in said ordinance, such election shall be held as provided by law for holding municipal elections in such municipality. Such ordinance shall be published once a day for a period of five days in a daily newspaper published in said municipality, or once a week for three successive weeks in a weekly newspaper published in said municipality. No other notice of such election need be given.

§ 3. It shall require the votes of two thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided for.

§ 4. No city, town, or municipal corporation shall incur an indebtedness under the provisions of this act, which together with all other indebtedness of said city, town, or municipal corporation, shall, in the aggregate, exceed

fifteen per centum of the assessed value of all the real and personal property in said city, town or municipal corporation.

§ 5. All bonds issued under the provisions of this act shall be issued, sold, and made payable, in the manner and form prescribed for the issue, sale, and payment of municipal bonds, by an act entitled, "An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof," which became a law, under the provisions of the constitution, without the governor's approval, February twenty-five, nineteen hundred and one.

§ 6. The proceeds of the sale of bonds issued under the provisions of this act shall be placed in the municipal treasury to the credit of a fund to be known as the public hall fund, and shall be applied, exclusively, to the purpose and object mentioned in the ordinance.

§ 7. The legislative body of said municipality shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect, annually, each year until said bonds are paid, a tax sufficient to pay the annual interest and the part of the principal of such bonds, that shall become due before the time for fixing the next general tax levy, and is not at the time of fixing such annual tax levy, otherwise provided for by funds then in the treasury and set apart for that purpose. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time, and in the same manner as other municipal taxes are collected, and be used for no other purpose than the payment of said bonds and accruing interest.

§ 8. All moneys derived from the use or hire of such assembly or convention hall shall be deposited in the treasury of the municipality to the credit of said public hall fund, and shall be applied, exclusively, to the following purposes, to wit:

First—For the necessary expenses of conducting, maintaining, and insuring such hall, and of making all improvements and repairs thereof.

Second—For the payment of instalments of interest or principal becoming due on said bonds until the whole of said bonded indebtedness shall have been paid.

Third—Any surplus remaining after providing for the purposes, first and second above specified, may be appropriated and used for general municipal purposes.

§ 9. The legislative body of any city, town, or municipal corporation where-in bonds have been issued for the construction or completion of a public assembly or convention hall, under the provisions of this act, shall have the power to appoint and employ all needful architects, engineers, superintendents, and agents, to prepare plans for the construction or completion of such public assembly or convention hall, and to superintend such work. All contracts for the construction or completion of such public assembly or convention hall, or for the furnishing of labor or materials therefor, shall be let to the lowest responsible bidder. The legislative body of the municipality shall advertise for at least ten days in one or more newspapers published in such municipality,

inviting sealed proposals for the construction or completion of said improvement, or for the furnishing of labor and materials therefor before any contracts shall be made. The said legislative body shall have the right to require from the successful bidder such bonds as they may deem best to insure the faithful performance of his contract. They shall also have the right to reject any and all bids. Said legislative body shall have power to appoint such officers, or agents, and to make and enforce such rules and regulations as may be necessary for the management, control, letting, and use of such public assembly or convention hall; provided, however, that in cities, towns, or municipal corporations, operating under a charter, heretofore or hereafter framed under section eight of article eleven of the constitution, and providing for a board of public works, all matters and things required in this section to be done and performed by the legislative body of the municipality, shall be done and performed by said board of public works; provided, further, that in cities, towns, or municipal corporations not having such board of public works, the legislative body may, by ordinance, appoint a commission to select the site for said hall, to have charge and supervision of its construction, and to manage and control the letting and use thereof, and may, by ordinance, prescribe and regulate the powers and duties of said commission.

§ 10. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—BONDS.

Authorizing the common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class to refund its indebtedness, to issue bonds therefor, and to provide for the payment of the same.

(Stats. 1897, 75, ch. LXXXII; amended 1901, 274, ch. CXIV.)

§ 1. The common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class in this state, having an outstanding indebtedness evidenced by bonds or warrants thereof, or by judgment or judgments recovered against it upon bonds or warrants originally issued by such town or city, is empowered, by a two-thirds vote of its number, to fund or refund the said indebtedness and issue bonds of such city or town therefor in sums of not less than one hundred dollars nor more than one thousand dollars each, and having not more than forty years to run, and bearing a rate of interest not exceeding six per centum per annum, payable semi-annually; provided, that no indebtedness shall be refunded at a higher rate of interest than that borne by the original debt. Such bonds shall be of the character known as "serials," not less than one fortieth of the principal being payable each year, together with the interest due on all sums unpaid. Principal and interest on said bonds shall be payable in gold coin or other lawful money of the United States, as may be expressed in said bonds, at the office of treasurer of said city or town. Said bonds shall be sold in the manner provided by such city council or other governing body, to the highest bidder therefor, for not less than their face value, in the same character of money as that in which they are payable. The proceeds of such sale shall be placed in the treasury of such city or town to the credit of the "Funding Fund," and

shall be applied only to refunding the indebtedness for which said bonds are issued. Said trustees, or other governing body, shall at the time for fixing the general tax levy for each year and in the same manner as such tax levy is made, levy and collect sufficient money to pay such part of the principal of said bonds issued under this act, as one year bears to the number of years for which the bonds are to run, and also the annual interest upon the sums unpaid. [Amendment, Stats. 1901, 274.]

§ 2. Whenever sufficient money is in the funding fund, in the hands of the treasurer, to redeem one or more of the outstanding bonds proposed to be refunded, he shall publish once a week for two weeks in some newspaper of general circulation published in such city or town, if there be any, a notice to the effect that he is prepared to pay such bond or bonds (giving the number thereof), and if the same are not presented for redemption within thirty days after the first publication of such notice, the interest on such bonds will cease. He shall, at the same time, deposit in the post-office a copy of such notice, inclosed in a sealed envelope, with the postage paid thereon, addressed to the owner or owners of such bond or bonds, at the post-office address of such owner or owners, as shown by the record thereof kept in the treasurer's office. If such bond or bonds are not presented within the time specified in such notice, the interest thereon shall then cease, and the amount due be set aside for the payment of the same, whenever presented. All redemption of bonds shall be made according to the priority in the order of their issuance, beginning at the first number. Whenever such outstanding bonds are surrendered and paid, the treasurer shall proceed to cancel the same by indorsing on the face thereof the amount for which they are received, the word "Canceled" and the date of cancelation. He shall also keep a record of such bonds so redeemed, and shall make a report of the same to the common council, or other governing body of such city or town, at least once a month, accompanying the same therewith by the bonds which have been taken up and canceled.

§ 3. All moneys which shall remain in said funding fund after all outstanding bonds or indebtedness as were proposed to be refunded have been taken up and canceled, shall be paid into the general fund of such city or town, and become a part thereof. [Amendment, Stats. 1901, 274.]

§ 4. Chapter eighty-two of the statutes of eighteen hundred and eighty-three, chapter forty-eight of the statutes of eighteen hundred and ninety-three, and chapter one hundred and seventy-six of the statutes of eighteen hundred and ninety-five, all being laws of the state of California in conflict herewith, are hereby repealed.

§ 5. This act shall take effect and be in force immediately after its passage.

It is held that section 4 of the foregoing act did not repeal section 6 of the Act of 1889, 399, ch. CCLXI.—See *City of Los Angeles vs. Hance*, 122 Cal. 77, 78, 54 Pac. Rep. 387.

MUNICIPAL CORPORATIONS—BOUNDARIES.

To provide for the alteration of the boundaries of and for the annexation of territory to incorporated towns and cities, and for the incorporation of such annexed territory in and as a part of such municipalities, and for the districting, government, and municipal control of annexed territory.

(Stats. 1889, 358, ch. CCXLVII; amended Stats. 1905, 551, ch. CDXI.)

§ 1. The boundaries of any incorporated town or city, whether heretofore or hereafter formed, incorporated, reincorporated, organized, or reorganized, may be altered, and new territory annexed thereto, incorporated and included therein, and made a part thereof, upon proceedings being had and taken as in this act provided. The council, board of trustees, or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory asked to be annexed to such corporation, and signed by not less than one fifth in number of the qualified electors of such municipal corporation, computed upon the number of votes cast at the last general municipal election held therein, must, without delay, submit to the electors of such municipal corporation and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such new territory shall be annexed to, incorporated in, and made a part of such municipal corporation. Such question shall be submitted at a special election to be held for that purpose, and no other; and such legislative body is hereby empowered to, and it shall be its duty to, cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation, and also in a newspaper, if any such there be, printed and published outside of such corporation, but in the county in which the territory so proposed to be annexed is situated, in each case at least once a week for a period of four successive weeks next preceding the date of such election. Such notice shall distinctly state the proposition to be submitted, i. e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporation the territory sought to be annexed, specifically describing the boundaries thereof; and in said notice the qualified electors of said municipal corporation, and the qualified electors residing in said territory so proposed to be annexed, shall be invited to vote upon such proposition by placing upon their ballots the words "For annexation" or "Against annexation," or words equivalent thereto. Such legislative body is hereby empowered, and it shall be its duty, to establish, and in such notice of election designate the voting precinct or precincts, and the place or places at which the polls will be opened in such territory so proposed to be annexed, and also in such municipal corporation. And such place or places shall be that or those commonly used as voting places within such municipal corporation, and also that or those commonly used within such new territory, if any such there be. Such legislative body is empowered to, and it shall, appoint the officers of such election, who shall be, for each voting place in such municipal corporation, and for such voting place in said new territory, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election. The ballots used at such election, the opening and closing of the polls, and the holding and conducting of such election, shall be in conformity, as far as may be, with the general laws of this state concerning elections; and the judges and inspectors of such election shall immediately on the closing of the polls, count the ballots, make up and certify the tally-sheets of the ballots cast at their respective polling-places, seal, and then immediately return the same as below provided, doing so, as nearly as practicable, in the manner provided in the election laws of this state; but the ballots, tally-sheets, and returns shall be so

returned to and deposited with the clerk of such legislative body. Such legislative body shall, at the time provided for its regular meeting next after the expiration of three days from and after the date of said election, meet and proceed to open and canvass said ballots, tally-sheets, and returns; and such canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments, if possible, until said canvass is completed. Such canvass by such legislative body shall be conducted and completed as follows: The ballots cast in such outside territory so proposed to be annexed, together with the tally-sheets and returns belonging therewith, shall be canvassed separately; and the ballots cast inside of said municipal corporation, together with their tally-sheets and returns, shall be canvassed separately. Immediately upon the completion of such canvass said legislative body shall cause a record thereof to be made and entered upon its minutes, showing the whole number of ballots cast in such outside territory, the whole number of ballots cast in such municipal corporation, the number thereof cast in each in favor of annexation, and the number thereof cast in each against annexation; and if it shall appear from such canvass that a majority of all the ballots cast in such outside territory, and a majority of all the ballots cast inside of said municipal corporation, are in favor of annexation, the clerk, or other officer performing the duties of clerk, of such legislative body, shall promptly make and certify, under the seal of said municipal corporation, and transmit to the secretary of state, a copy of said record so entered upon said minutes, together with a statement showing the date of said election and the time and result of said canvass, which document shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed shall be deemed and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation. No territory which, at the time such petition for such proposed annexation is presented to such legislative body, forms any part of any incorporated town or city, shall be annexed under the provisions of this act.

§ 2. The legislative body of any incorporated town or city which is or shall be divided into wards, and to which territory has been heretofore or shall be hereafter annexed, must by ordinance either so alter the boundaries of the wards of such municipal corporation as to include such annexed territory in one or more wards adjoining such annexed territory, or make of such annexed territory one or more additional wards; provided, that the number of wards shall not be so increased as to exceed the number which such municipal corporation may according to law have. In altering the boundaries of wards, or creating new wards, regard must be had to the number of inhabitants, so that each ward shall contain, as near as may be, an equal number of inhabitants, exclusive of persons incapable of citizenship in this state.

§ 3. Nothing in this act provided for shall alter or affect the boundaries of any senatorial or assembly district.

§ 4. All proper expenses of proceedings for annexation of territory under this act, whether such annexation shall be made and completed or not, shall be paid by the municipal corporation so annexing or attempting to annex such territory. In the event that a tax for road purposes has been levied by the board of supervisors of any county against property situate in territory which, subsequent to such levy, is annexed by any town or city under the provisions of this act, but which, at the time of such annexation has not been collected, then all such taxes so uncollected shall be and become the property of the town or city to which such territory is annexed, and same shall, with other county taxes, be collected by the county tax collector, and by him paid in to the county treasurer of said county, after which the same shall, by the county treasurer, be paid to such town or city, upon proper warrant therefor. The town or city clerk, or other officer performing the duties of clerk of such town or city, shall, at any regular meeting of the board of supervisors of said county, present and file a verified claim for any money thus due such town or city, setting forth the fact and the date of such annexation, and the amount in the hands of said county treasurer so due such town or city. Said claim shall be audited by the board of supervisors in the manner in which other claims against the county are audited, and if the amount thereof is correct, the same shall be allowed, and the county auditor instructed to draw his warrant for said amount against the road fund of the district in which such annexed territory is situated. This law shall apply to all such taxes not paid into the county treasury prior to the passage of this act. [Amendment, Stats. 1905, 551.]

§ 5. This act shall take effect and be in force from and after its approval.

Stats. 1889, 358.—People ex rel. Cuff vs. Education, 125 Cal. 593, 594, 58 Pac. Rep. City of Oakland, 123 Cal. 598, 600, 56 Pac. 175; People ex rel. Skelton vs. Los Angeles, Rep. 445; Vernon School District vs. Board 133 Cal. 338, 340-344, 65 Pac. Rep. 749.

MUNICIPAL CORPORATIONS—BOUNDARIES.

To provide for the alteration of the boundaries of incorporated towns and cities by annexation of uninhabited territory thereto, and for the incorporation of such annexed territory in and as a part of such municipality, and for the districting, government, and municipal control of annexed territory.

(Stats. 1899, 37, ch. XLI.)

§ 1. The boundaries of any incorporated town or city may be altered and new uninhabited territory annexed thereto, incorporated, and included therein, upon proceedings being taken as in this act provided. The legislative body of any such municipal corporation, upon receiving a written petition therefor, containing a description of the new uninhabited territory asked to be included in such corporation, and signed by not less than one tenth in number of the qualified electors of such municipal corporation, computed upon the number of votes cast at the last general municipal election held therein, must, without delay, notify the board of supervisors of the county in which said town or city is located of the fact of the filing of such petition. Upon the receipt of such notification, it shall be the duty of said board of supervisors to cause notice to be published for a period of five days, setting forth by general description the land sought to be annexed to the said municipality, and announcing the time and place when and where objections to said annexation will be heard. Any

person owning any land so sought to be annexed, may object to said annexation by filing a written remonstrance with the said board of supervisors. At the time specified in said notice, or at such other time as may be fixed by postponement, the said board of supervisors shall hear the said protestations, and unless the remonstrances are filed by the owners of any single tract of land exceeding five acres in area, or by the owners of more than one half of the land sought to be annexed, the decision of said board of supervisors upon said protestations shall be final and conclusive. In the event that the owners of more than one half of the land so sought to be annexed, or the owners of any single tract of land exceeding five acres in area, file remonstrances against such annexation, said protestations shall be sustained by said board of supervisors, and shall be a bar to any further proceedings under the provisions of this act for the period of one year. In the event that there are no protestations filed, or, if filed, if the same are overruled by said board of supervisors, and the said board shall, by resolution, consent to the annexation of said new uninhabited territory by the municipality, it shall then be the duty of the legislative branch of said municipality to submit to the electors of such municipality the question whether or not said new territory shall be annexed to, and incorporated in, and made a part of, such municipal corporation. Such question shall be submitted at a special election to be held for that purpose, or at any municipal election. Notice of said election shall be published in a newspaper, printed in such city or town, at least once a week for a period of two weeks next preceding such election. Said notice shall state that it is proposed to incorporate the territory sought to be annexed as a part of such municipal corporation, and invite the electors of said city or town to vote upon such proposition, by marking their ballots "For annexation," or "Against annexation." In said notice, the territory sought to be annexed may be generally described in such manner as to apprise the voters of the particular land sought to be annexed. Said legislative body is hereby empowered, and it shall be its duty to establish, and in such notice of election designate the voting precinct or precincts, and the place or places at which the polls will be opened in said city or town, and said elective body is empowered to appoint the officers of such election, who shall be for each voting place at least two judges and one inspector, each of whom shall be a qualified elector of said city. The judges and inspectors of such election shall, immediately upon the closing of the polls, count the ballots, make up and certify the returns of the ballots cast at their respective polling places as quickly as practicable, in the manner provided in the laws of this state, and deposit all said returns with the clerk of said city or town. Said legislative body shall, at the time provided for its regular meeting next after the said returns are filed with the said clerk of said city or town, meet and proceed to open and canvass said returns, and immediately upon the completion of such canvass cause a report thereof to be made and entered upon its minutes, showing the whole number of votes cast, and the number cast in favor of annexation, and the number cast against annexation; and if it shall appear from such canvass that a majority of all the votes cast is in favor of annexation, the clerk or other officer performing the duties of the clerk of such legislative body shall make and certify, under the seal of said municipal corporation, and transmit to the secretary of state, and to the board of supervisors of the county in which

said city or town is located, a copy of said report so entered upon its minutes, together with a statement showing the date of said election, and the time and result of said canvass, which document shall be filed by the secretary of state and the clerk of said board of supervisors. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed shall be deemed and shall be complete, and thenceforth such annexed territory shall be a part of such municipal corporation for all intents and purposes, except only that no part of such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation. No territory which at the time the said petition for proposed annexation is presented to said legislative body forms any part of any incorporated city or town shall be included under the provisions of this act.

§ 2. The legislative body of any incorporated city or town which is or shall be divided into wards, and which territory has been heretofore or shall be hereafter annexed, must by ordinance so alter the boundaries of the wards of said municipal corporation as to include such annexed territory, in one or more wards adjoining such annexed territory, or may form such annexed territory into one or more additional wards; provided, that the number of wards shall not be so increased as to exceed the number which said municipal corporation may, according to law, have.

§ 3. Nothing in this act provided for shall alter or affect the boundaries of any senatorial or assembly district.

§ 4. All proper expenses of proceedings for annexation of territory under this act, whether such annexation shall be made and completed or not, shall be paid by the municipal corporation so annexing or attempting to annex such territory.

§ 5. Nothing in this act shall be deemed to repeal the provisions of any act now providing for the annexation of inhabited territory, but territory shall be deemed uninhabited, for the purposes of this act, unless the occupants are bona fide residents thereof.

§ 6. This act shall take effect and be in force from and after its approval.

MUNICIPAL CORPORATIONS—BOUNDARIES.

To amend section one of an act entitled an act to provide for changing the boundaries of cities and municipal corporations, and to exclude territory therefrom, approved March twentieth, eighteen hundred and eighty-nine.

(Stats. 1889, 433, ch. CCLXXX; amended Stats. 1905, 715, ch. DLI.)

§ 1. The boundaries of any city or municipal corporation may be altered, and territory excluded therefrom, after proceeding had, as required in this section. The council, board of trustees, or other legislative body of such corporation, shall, upon receiving a petition therefor, signed by not less than a majority of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the

question whether such territory as is proposed by such petition shall be excluded from such municipal corporation and cease to be a part thereof. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be excluded. And the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the words "For exclusion" or "Against exclusion," or words equivalent thereto; such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be excluded, which place or places shall be that or those usually used for that purpose within such territory, if any such there be, and for the purposes of this act, the qualified electors residing in the territory proposed to be excluded shall be entitled to vote at the polls in such territory, and not elsewhere. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be excluded shall be canvassed separately, and if it shall appear on such canvass that a majority of all the votes cast in such territory, and a majority of all the votes in such corporation, shall be for exclusion, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote, which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation exclusive of such territory, the number of votes cast in each for exclusion, and the whole number of votes cast in each against exclusion. From and after the date of filing such abstract, such exclusion of territory from such municipal corporation shall be deemed complete, and thereafter such territory shall cease to be a part of such municipal corporation; provided, that nothing contained in this act shall be held to relieve in any manner whatsoever any part of such territory from any liability for any debt contracted by such municipal corporation prior to such exclusion; and provided further, that such municipal corporation is hereby authorized to levy and collect from any territory so excluded, from time to time, such sums of money as shall be found due from it on account of its just proportion of liability for any payment on the principal or interest of such debts. Such assessment and collection shall be made in the same manner and at the same time that such assessment and collection is levied and made upon the property of such municipal corporation for any payment on account of such debts; and provided further, that any such territory so excluded from any municipal corporation may at any time tender to the legislative body of such municipal corporation the amount for which such territory is liable on account of such debts, and after such tender is made, such authority as is herein given to such municipal corporation to levy and assess taxes on such excluded territory shall cease; provided, however, that after an election shall have been held for the exclusion of any portion of a municipal corporation if the vote shall be against exclusion, no election for the exclusion of the same

territory shall again be held within three years from the date of such former election.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

People ex rel. Miller vs. Common Council, 85 Cal. 369, 370, 24 Pac. Rep. 727; Wiedwald vs. Dodson, 95 Cal. 450, 452, 30 Pac. Rep. 580; Johnson vs. City of San Diego, 109 Cal. 468, 473, 42 Pac. Rep. 249, 30 L. R. A. 178; People ex rel. Cuff vs. City of Oakland, 123 Cal. 598, 605, 56 Pac. Rep. 445.

The amendment of 1905 apparently supercedes the former statute. The statute of 1889, 356, ch. XXXLVI, on this subject is doubtless repealed also by this statute. Under the statute of 1889, 356, the petition need only be signed by "not less than one fifth" of the qualified electors. The present

statute requires a "majority," and the present statute repeals all acts and parts of acts in conflict therewith.

The decisions citing the statute of 1889, 356, are, however, given as follows:

Stats. 1889, 356.—§§ 2, 3—People ex rel. Miller vs. Common Council, 85 Cal. 369, 370, 24 Pac. Rep. 727; Wiedwald vs. Dodson, 95 Cal. 450, 452, 30 Pac. Rep. 580. **Generally—**Johnson vs. City of San Diego, 109 Cal. 468, 473, 42 Pac. Rep. 249, 30 L. R. A. 178; People ex rel. Cuff vs. City of Oakland, 123 Cal. 598, 605, 56 Pac. Rep. 445.

MUNICIPAL CORPORATIONS—BUILDINGS.

Conferring power upon the common council, board of supervisors, or other governing body of cities, or cities and counties, of over one hundred thousand inhabitants, to acquire or condemn land for a suitable site, and erect thereon a suitable building or buildings for municipal purposes.

(Stats. 1895, 242, ch. CXCVIII; amended 1897, 50, ch. LV.)

§ 1. Power and authority is hereby conferred upon the common council, board of supervisors, or other governing body of every city, or city and county, in this state having a population of over one hundred thousand inhabitants, to provide for the erection and construction in such city, or city and county, and at the expense of the same, such additional or other municipal building or buildings as the common council, board of supervisors, or other governing body of such city, or city and county, may determine upon for the accommodation of the criminal department of the superior court, police courts, police stations, prisons, morgues, or coroner's offices of such city, or city and county, and for such other municipal uses as may be deemed necessary.

§ 2. In the event that the common council, board of supervisors, or other governing body of such city, or city and county, shall deem it expedient, and in their judgment that the public good requires the construction of such building or buildings, for the construction of which power is conferred upon them by section one of this act, in the manner and mode prescribed by this act, they are hereby authorized and empowered to express such judgment by resolution or order, in such manner as they may deem proper. And for the purpose of raising the money necessary to complete said building or buildings, the said common council, board of supervisors, or other governing body of such city, or city and county, is hereby authorized and empowered to levy and collect, in the same manner and at the same time as other taxes are levied and collected in such city, or city and county, for municipal purposes, an ad valorem property tax on real and personal property, which shall not in the aggregate exceed the sum of three hundred thousand dollars, which sum shall cover all the expense of the said building or buildings.

§ 3. As a site for the erection and construction of said building or buildings,

power is hereby conferred upon the common council, board of supervisors, or other governing body of such city, or city and county, to acquire by purchase, or to condemn and acquire under the laws of eminent domain, such land as may be necessary therefor.

§ 4. The money arising from the tax hereby authorized to be levied and collected shall be kept by the city, city and county treasury of such city, or city and county in a fund to be known as the "Public Building Fund," and out of which said fund all claims for work, labor, and materials used in the construction of said building, and all other expenses authorized to be incurred under the provisions of this act, shall be paid. All claims against the said fund shall be allowed by the common council, board of supervisors, or other governing body of such city, or city and county, by resolution entered upon the minutes in the same manner and form as other expenditures are authorized, before the auditor shall be authorized to audit the same; and in no case shall any portion of said fund be used or expended for any other purpose than those herein indicated, nor shall any part of the cost of the construction of said building be paid out of any other or different fund; nor shall any lien for work, labor, or material at any time attach to the said building or buildings, nor the land upon which the same is located in any manner whatever.

§ 5. When work is to be done upon said building or buildings, or materials to be furnished, it shall be the duty of the common council, board of supervisors, or other governing body of such city, or city and county, to advertise for at least ten days in a daily newspaper published and circulated in such city, or city and county, for sealed proposals for doing both said work and furnishing said material. The said work and material shall be of the best quality. The advertisement shall contain a general description of the work to be done and the materials to be furnished, the time within which the same is to be done or furnished, and may refer to plans and specifications for such other details as may be necessary to give a correct understanding regarding the work or materials. The advertisement shall also state the day and an hour of said day within which bids will be received. At the hour and day stated in the advertisement, the said board or body shall proceed to open the bids in the presence of the bidders, and an abstract of each shall be recorded in the minutes by the clerk. A day and hour shall then be fixed for considering the bids and awarding the contract. An abstract of said bids, showing the name of each bidder, the price at which work, labor, and materials are offered to be done or furnished by each, and such other things as may be necessary to show or explain the offer, shall be made by the clerk and published for five days in a daily newspaper of general circulation published in such city, or city and county. At the expiration of five days after the first publication of the abstract, on the day and at the hour fixed by said board or body, said board or body shall proceed to consider the several bids and award the contract for doing the work and supplying the material for which proposals are invited, and for none other, to the lowest bidder who shall furnish sufficient sureties to guarantee the performance of the contract; provided, the advertisement hereinbefore provided for, shall invite proposals and bids, in one total sum or amount, for the performance of all the work and the furnishing of all the materials called for in the said advertisement for the erection of the entire

building or buildings. Said board or body shall have the right to reject any or all bids, when in their judgment the public interests may be thereby promoted. Such contract shall be executed on behalf of such city, or city and county, by the mayor, or president of the common council, board of supervisors, or other governing body of such city, or city and county. No change in the plans or specifications shall be made after proposals for doing work and furnishing materials have been called for, nor shall any contractor be allowed a claim for work done or materials furnished in excess of his contract, except on the approval of said common council, board of supervisors, or other governing body of cities, or cities and counties; provided, that the aggregate cost of any change, or changes, shall not exceed the sum of three thousand dollars. All contracts shall be in writing, and shall be carefully drawn by the city attorney, [or] city and county attorney, or other law officer of such city, or city and county, and shall contain detailed specifications of the work to be done, the manner in which the same shall be executed, the quality of the material, and the time within which the same shall be completed; and such penalty for the non-performance of such contract as said board or body may deem just and reasonable. All contracts shall be signed in triplicate—one copy of which, with the plans and specifications of the work to be done, shall be filed with the clerk or secretary of said board or body, and shall at all times, in office hours, be open to the inspection of the public; one, with the plans and specifications, shall be kept in the office of said board or body, and the other copy, with plans and specifications, shall be delivered to the contractor. [Amendment, Stats. 1897, 50.]

§ 6. The common council, board of supervisors, or other governing body of such city, or city and county, may make payments on such contract from time to time, as work progresses or materials are furnished; but until the contract is completed, at no time shall the payments exceed seventy-five per centum of the value of the labor or materials furnished.

§ 7. The plans and specifications herein referred to shall be secured by said board or body after the publication for ten days in a daily newspaper of general circulation in such city, or city and county, of a resolution inviting the submission of competitive plans and specifications for said building or buildings. Said resolution shall contain a general statement of the purposes for which said building or buildings are to be used, the cost thereof, and the character of the design required. Said plans and specifications may be submitted to such board or body under such requirements and conditions, and at such time as said board or body may prescribe.

§ 8. This act shall take effect and be in force from and after its passage.

MUNICIPAL CORPORATIONS—OVER TEN THOUSAND—COURTS.

Providing that in all cities of over ten thousand inhabitants, the mayor, or other chief executive, shall not be required to act as city judge, or ex officio judge of the city court, or as justice of the peace; to provide for the abolishment of such city court, and for the transfer of the business and properties of said city court to the justice of the peace of such cities, and to require such justice to finish such business, and to repeal all special acts in conflict herewith.

(Stats. 1887, 51, ch. XXXIX.)

§ 1. In cities of over ten thousand inhabitants, the mayor, or other chief executive thereof, shall not be required to act as justice of the peace, or to hold a city court, or to act as ex officio city judge, or to perform any of the duties of judge of the city courts; and all city courts created by law to be held by such mayor, or other chief executive of such cities, are hereby abolished.

§ 2. All books, dockets, files, documents, papers, and properties of every kind whatsoever belonging to such city court, shall be transferred to the justice of the peace of said city, provided for by law, to hold the police court of such city, or if there be no such police court therein, then to such justice of the peace therein as may be designated for such purpose by the mayor thereof; and such justice of the peace shall have jurisdiction of all matters heretofore brought in such city court, or of which said city court had jurisdiction; and it shall be his duty to collect all fines and charges required by law to be collected by such city court, and to account for and pay the same over to the treasurer of said city in the same manner, and at the same times and under such terms and conditions, as heretofore required of and by said city court. Said justice of the peace shall complete all such unfinished business as may be transferred to him from said city court under the provisions hereof, in the same manner as heretofore required of said city court.

§ 3. The provisions of all acts and every special act of the legislature which conflict in any wise with this act are each and every one hereby repealed.

§ 4. This act shall take effect and be in force at once after its passage.

MUNICIPAL CORPORATIONS—DISINCORPORATION.

To provide for the ownership of property and the winding up of the affairs of municipal corporations disincorporated under the provisions of an act of the legislature of the state of California, entitled "An act to provide for the disincorporation of municipal corporations of the sixth class," approved March twenty-sixth, eighteen hundred and ninety-five, when two thirds or more in value of assessable property within the former limits thereof shall be included within the boundaries of any subsequently incorporated city or town.

(Stats. 1899, 17, ch. XVIII.)

§ 1. Any city or town heretofore or hereafter incorporated that, at the time of incorporation, shall embrace within the corporate limits thereof two thirds or more in value of assessable property formerly contained within the corporate boundaries of any city or town disincorporated under the provisions of an act of the legislature of the state of California, approved March twenty-sixth, eighteen hundred and ninety-five, entitled "An act to provide for the disincorporation of municipal corporations of the sixth class," shall succeed to and become the owner of all public property formerly belonging to such disincorporated city or town; and also to such proportion of the corporate debts, liabilities, and credits due or owing and unpaid, as the total value of assessable property of such former city or town lying within its boundaries, as aforesaid, shall bear to the total value of all assessable property situated within the former limits of said municipal corporation so disincorporated; such valuation to be determined by the assessment roll of the county in which such city or town is

situated for the fiscal year in which said municipality was disincorporated; provided, that any territory contained therein that was not included within the former limits of said disincorporated municipality shall not be liable to be taxed for any debt or liability of said disincorporated city or town.

§ 2. The board of supervisors of the county in which said city or town is situated shall, upon written request of the board of trustees or other legislative body thereof, forthwith cause the county auditor to prepare a statement of the total valuation of assessable property in said disincorporated municipality and the total amount thereof contained in said incorporated city or town, as aforesaid, and said auditor shall prepare the same without cost. If it appears from said statement that two thirds or more in value of said assessable property is contained within the boundaries of said incorporated city or town, said board of supervisors shall, by an order duly entered upon their minutes, fix the relative proportion thereof, which proportion so fixed shall be the proportion of the debts and liabilities of said disincorporated municipality for which said incorporated city or town shall be liable; and shall forward a certified copy of said entry to the secretary of state and also to the city clerk of said incorporated city or town, and forthwith turn over to the board of trustees or other legislative body thereof, all public property taken by them under the provisions of said act providing for the disincorporation of cities of the sixth class, and such proportion of all moneys in the special fund provided for in said act, as said incorporated city or town is entitled to, estimated as in the case of debts and liabilities, as aforesaid. And thereupon the ownership and title to all public property of every description formerly belonging to said disincorporated municipality, which under the provisions of said act has been taken possession of by the board of supervisors and passed into the control of the county or passed into the ownership and possession of the state of California by reason of said disincorporation, shall immediately be vested in said incorporated city or town as fully as if said property had been originally acquired by it.

§ 3. If there be a bonded indebtedness of said disincorporated municipality existing on its former territory, a portion of which is included in said city or town as aforesaid, the board of trustees or other legislative body of such city or town shall make provisions to pay its proportion thereof, estimated as aforesaid, in the same manner it should have been paid had said city or town not disincorporated; and for that purpose shall annually levy and collect, at the same time other city taxes are levied and collected, a special tax on the territory of said disincorporated municipality within the limits of said city or town, sufficient to pay its proportion thereof as the same shall become due; and the board of supervisors of said county shall annually levy and collect, at the same time other county taxes are levied and collected, a special tax on the remainder of said territory not included in said city or town, sufficient to pay the balance thereof, and cause the same to be paid to the treasurer of said city or town, and it shall be the duty of said city treasurer to pay said bonded indebtedness as the same becomes due with said moneys levied and collected as aforesaid, in conformity with the laws under which such indebtedness was incurred.

§ 4. Any property within the limits of said disincorporated city or town that has been sold for any tax levied by such disincorporated municipality may

be redeemed or a tax deed issued therefor, in the same manner and with the same effect as if said municipality had not disincorporated. Such proceedings to be had and deed issued in the corporate name of said city or town in which said land is situated.

§ 5. All acts or parts of acts in conflict herewith are hereby repealed.

§ 6. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—FISCAL YEAR.

Providing for changing the fiscal year of cities in this state operating under a charter framed under section eight, article eleven, of the constitution.

(Stats. 1895, 128, ch. CXXXIX.)

§ 1. Any city or municipal corporation within this state, operating under a charter framed under the provisions of section eight, article eleven, of the constitution, may, by ordinance, adopted by a majority of all the members of the board of trustees, common council, or other legislative body of such city or municipal corporation, change the fiscal year of such city or municipal corporation to begin at any other time than that fixed by such charter; and may provide sufficient revenue to carry on the business of the city or municipal corporation from the end of the previous fiscal year to the commencement of the fiscal year thus fixed, by adding to the first tax levy made for the new fiscal year a sufficient amount, in addition to the limit in such charter provided, that will raise enough money to pay claims contracted between the ending of the previous fiscal year and the commencement of the new fiscal year. And may also provide by ordinance, passed in the same manner, the time for making the annual tax levy, and the time at which the lien thereof shall attach; and may change the time or times designated in such charter for making the assessment, demand statements of property, preparing the assessment roll, equalizing the assessment, and all other matters relating to the assessment and collection of municipal taxes.

§ 2. This act shall take effect and be in force from and after its passage.

MUNICIPAL CORPORATIONS—FREEHOLDER ELECTIONS.

In relation to municipal elections where the same are held separate from general state elections, and elections held under the authority of section eight of article eleven of the constitution, to elect boards of freeholders, or to vote upon proposed charters or upon amendments to existing charters, and to repeal an act entitled an act in relation to elections held under the authority of section eight of article eleven of the constitution, approved March thirty-first, eighteen hundred and ninety-seven.

(Stats. 1899, 63, ch. LIV.)

§ 1. Except in the particulars otherwise provided for in the constitution, all municipal elections, where the same are held separate from general state elections, and all elections held under the authority of section eight of article eleven of the constitution, to elect boards of freeholders, or to vote upon proposed charters, or upon amendments to existing charters, shall be conducted under the provisions of this act.

§ 2. The boards of municipalities charged with the conduct and carrying on of elections may district and subdivide the municipalities into municipal election precincts, for the holding of the elections mentioned in section one of this act, and change and alter such precincts, and redistrict the municipality for such elections as often as occasion may require.

§ 3. In establishing such municipal election precincts, said board may consolidate the precincts which existed for the holding of the last preceding general state election to a number not exceeding six for each municipal election precinct, and shall number the municipal election precincts so established consecutively, and each precinct as established shall be known as "Municipal Election Precinct Number —."

§ 4. All persons shall be entitled to vote at the elections mentioned in section one who come within the terms or comply with the requirements of this act.

§ 5. Every person who was a qualified elector at the general state election immediately preceding the holding of any of the elections mentioned in section one of this act, and who was upon the great register of the county, or city and county, where any such municipality is situated, as a qualified elector of any one of the precincts which compose a municipal election precinct, and who continues to reside within the exterior boundaries of such municipal election precinct until the time of the holding of the election herein provided for, shall be entitled to vote at said election without other or additional registration.

§ 6. All other persons claiming to be entitled to vote at any of the elections provided for in this act must be registered upon the great register of the county, or city and county, within which such municipality is situated, as an elector of and within one of the precincts which compose the municipal election precinct wherein he claims to be entitled to vote. Such registration must take place at least twenty-five days prior to the election; and it shall be the duty of the county clerk of the county, or city and county, within which such municipality is situated, and in those counties or cities and counties wherein the county clerk is not the officer charged with the duty of registering voters, then of the officer so charged, to keep his office open for at least thirty days prior to the twenty-fifth day preceding any such election, for the registration of voters who may desire to vote at such election.

§ 7. The boards of municipalities charged with the conduct of elections shall appoint a board of election for each municipal election precinct, to consist of two inspectors, two judges, two clerks, and two ballots clerks, who shall apportion among themselves the work and labor required to conduct such election within their respective municipal election precincts. But one poll list need be kept, and but one register. These shall be returned to the proper officers as a part of the official returns.

§ 8. The register used in each municipal election precinct shall consist of a copy of the register of the county, or city and county, used at the general state election immediately preceding the holding of the election provided for in this act in the precincts which compose the municipal election precinct, together with the additional names of the persons who, by registration had since such

general state election, are entitled to vote at any of the elections herein provided for within the municipal election precinct. In the event that precinct registers were used at the last preceding general state election, then it shall be the duty of the county clerk, or persons clothed with the authority for the registration of voters, to furnish a copy of the precinct register of each of the precincts which compose said municipal election precinct to the board of election for each municipal election precinct and the additional registrations above mentioned.

§ 9. No person shall be entitled to vote at any election provided for in this act unless his name appear upon the great register or precinct register as a voter within the exterior boundaries of the municipal election precinct, or unless, according to the constitution and laws of this state, he is entitled to vote thereat.

§ 10. The provisions of law which would be applicable to the elections mentioned in section one of this act, but for the passage hereof, shall, nevertheless, control the said elections as to the matters for which no provision is herein contained.

§ 11. The act approved March thirty-first, eighteen hundred and ninety-seven, entitled an act in relation to elections held under the authority of section eight of article eleven of the constitution to elect boards of freeholders, or to vote upon proposed charters, or amendments to existing charters, is hereby repealed.

§ 12. This act shall take effect immediately.

As to formation of election precincts, this statute is "directory."—People ex rel. Skelton vs. Los Angeles, 133 Cal. 338, 344, 65 Pac. Rep. 749. Cited, but not on same

point, in Fragley vs. Phelan, 126 Cal. 383, 392, 58 Pac. Rep. 923; German Sav. & L. Soc. vs. Ramish, 138 Cal. 120, 130, 69 Pac. Rep. 89, 70 Pac. Rep. 1067.

MUNICIPAL CORPORATIONS—GIFTS BY.

To ratify and confirm the conveyance of certain property to trustees for charitable or educational purposes by the city council or trustees of any city of less than fifty thousand inhabitants, or of any incorporated town.

(Stats. 1889, 94, ch. LXXXIX.)

§ 1. Wherever the city council or trustees of any city of less than fifty thousand inhabitants, or of any incorporated town, has by deed of trust conveyed property, or any portion thereof, that has been set apart for a public park, to trustees, for charitable or educational uses, such conveyance is hereby ratified and confirmed; provided, that no institution now existing or to be established on such property shall be private in its benefits, or sectarian in its work or teachings, or be to any extent under the management or control of or in any way tributary to any religious creed or order, church, or sectarian denomination whatsoever; provided further, that land so conveyed shall be kept open as public grounds by the trustees of such institutions as are or may be placed thereon, and that the public visitation of such grounds shall not be restricted, excepting by such reasonable regulations as park property and the proper maintenance of such institutions may require; provided further, that property so conveyed shall revert to the grantors, whenever and so far as the grantees

do not use the same in accordance with the stipulations of the deed of trust and with the requirements of this statute.

§ 2. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—GRAVEL BEDS.

Authorizing municipal corporations to lease, purchase, own, and operate gravel beds and quarries, and to transport gravel and rock therefrom to such municipal corporations, for the purpose of making, improving, and repairing roads.

(Stats. 1897, 217, ch. CLX.)

§ 1. Any incorporated city or town in this state may acquire, lease, purchase, and operate any gravel bed or quarry within the county where such city or town is situated, and may equip and operate a plant at such gravel bed or quarry, or within such town or city, for the purpose of breaking, crushing, or otherwise preparing gravel or rock to be used in making, paving, improving, or repairing its streets. Any such city or town may acquire, lease, or purchase and maintain all necessary roads, rights of way, and tramways over which to transport gravel or rock from such gravel bed or quarry to such city or town, and all necessary appliances for that purpose.

§ 2. No money shall be expended or expense incurred for any of the purposes set forth in section one, unless the same is authorized at a regular meeting of the legislative body of such city or town, and by a vote of two thirds of the members thereof.

§ 3. This act shall not extend or enlarge any limitation upon municipal taxation or the expenditure of municipal funds, now existing by reason of state laws or city charters in any of the cities or towns of this state.

MUNICIPAL CORPORATIONS—IMPROVEMENTS.

Authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state, for the construction of waterworks, sewers, and all necessary public improvements, or for any purpose whatever, and to repeal the act approved March ninth, eighteen hundred and eighty-five, entitled an act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain waterworks, also to repeal an act approved March fifteenth, eighteen hundred and eighty-seven, entitled an act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state.

(Stats. 1889, 399, ch. CCLXI; amended 1891, 84, ch. LXXXIII; 1891, 94, ch. XC; 1891, 132, ch. CXIX; 1893, 61, ch. XLVIII.)

§ 1. Any city, town or municipal corporation, incorporated under the laws of this state, may, as hereinafter provided, incur indebtedness to pay the cost of any municipal improvement, or for any purpose whatever requiring an expenditure greater than the amount allowed for such improvement by the annual tax levy.

§ 2. Whenever the legislative branch of any city, town, or municipal corporation shall, by ordinance passed by a vote of two thirds of all its members, and approved by the executive of said city, town, or municipal corporation, determine that the public interest or necessity demands the acquisition, construction, or completion of any municipal buildings, bridges, waterworks, water rights, sewers, or other municipal improvements, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality, they may, after the publication of such ordinance for at least two weeks in some newspaper published in such municipality, and at their next regular meeting after such publication, or at an adjourned meeting, by ordinance passed by a vote of two thirds of all its members, and also approved by the said executive, call a special election and submit to the qualified voters of said city, town, or municipal corporation, the proposition for the purpose set forth in the ordinance, and no question other than the incurring of indebtedness for said purpose shall be submitted. The ordinance calling such special election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the proposed public improvement, the necessity for such improvement, and that the bonds of the municipality shall issue for the payment of the cost of such improvement, as in such ordinance set forth, if the proposition be accepted by the qualified voters, as hereinafter provided, and shall fix the day on which such special election shall be held, the manner of holding such election, and the voting for or against incurring such indebtedness; such election shall be held as provided by law for holding such election in such city, town, or municipal corporation; provided, however, that where by the terms or provisions of the charter of any city, town, or municipal corporation, the cost of making the proposed improvements is to be or must be paid from a special fund created by such charter for that purpose, the proposition of incurring such an indebtedness may be submitted to the qualified voters at any general election for officers of the state of California or of such city, town, or municipal corporation. [Amendment, Stats. 1891, 94.]

§ 3. Such ordinance shall be published once a day, for at least ten days, or once a week for two weeks before the publication of the notice of the special election, in some newspaper published in such municipality. After said publication said legislative body shall cause to be published, for not less than two weeks, in at least one of the newspapers published in such municipality, a notice of such special election, the purpose for which the indebtedness is to be incurred, the number and character of the bonds to be issued, the rate of interest to be paid, and the amount of tax levy to be made for the payment thereof. It shall require the votes of two thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided.

§ 4. It shall be the duty of the legislative branch of any municipality contemplating permanent public improvements, to first have plans and estimates of the cost of such improvements made by a competent engineer or architect, who has had successful experience in such work, before the question of incurring any indebtedness for such improvement is submitted to vote.

§ 5. No city, town, or municipal corporation shall incur any indebtedness for public improvements which shall, in the aggregate, exceed fifteen per centum of the assessed value of all the taxable real estate and personal prop-

erty of such city, town, or municipal corporation. [Amendment, Stats. 1891, 84.]

§ 6. All municipal bonds for public improvements issued under the provisions of this act shall be of the character of bonds known as serials, and shall be payable in gold coin or lawful money of the United States, in the manner following: One fortieth part of the whole amount of indebtedness shall be paid each and every year, on a day and at a place to be fixed by the legislative branch of the municipality issuing the bonds, together with the interest on all sums unpaid at such date. The bonds shall be issued in such denominations as the legislative branch of the municipality may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars each, payable on the day and at the place fixed in such bond, and with interest at the rate specified in the bond, which rate shall not be in excess of the legal rate of the state of California, and may be payable annually or semiannually. Such bonds may be issued and sold by the legislative branch of the city, town, or municipal corporation, as they may determine, at not less than their face value, in gold coin of the United States, and the proceeds of such sale shall be placed in the municipal treasury to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in the ordinance, until such objects are fully accomplished, after which, if any surplus remains, such surplus shall be transferred to the general fund of such municipality. [Amendment, Stats. 1893, 61.]

§ 7. The legislative branch of any city, town, or municipal corporation, issuing bonds under authority of this act, shall have the right to determine the rate of interest such bonds shall bear; provided, that in no case shall it exceed seven per centum per annum, and to name the date and place where such bonds and interest shall be paid; provided, that the place of payment shall be either at the office of the treasurer of the municipality, or at some designated bank in San Francisco, Chicago, New York, or Boston. The said bonds shall be signed by the executive of the municipality, and also by the treasurer thereof, and shall be countersigned by the clerk. The coupons of said bonds shall be numbered consecutively and signed by the treasurer.

§ 8. The legislative branch of said city, town, or municipal corporation shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds, also one fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

All acts or parts of acts conflicting with this act are hereby repealed. [Amendment, Stats. 1893, 61.]

§ 9. It shall be the duty of the legislative branch of every city, town, or municipal corporation, wherein public improvements are being made under the provisions of this act, to make all needful rules and regulations for carrying out and maintaining such improvements; to appoint all needful agents, superin-

tendents, and engineers to properly look after the construction and operation of such public works, and in all lawful ways to protect and preserve the rights and interests of the municipality; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section eight of article eleven of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town, or municipality. [Amendment, Stats. 1891, 132.]

§ 10. All contracts for the construction or completion of any public works or improvements, or for furnishing labor or materials therefor, as herein provided, shall be let to the lowest responsible bidder. The legislative branch of the municipality shall advertise, for at least ten days, in one or more newspapers published in the municipality, inviting sealed proposals for furnishing the labor and materials for the proposed improvements, before any contract shall be made therefor. The said legislative branch shall have the right to require such bonds as they may deem best from the successful bidder, to insure the faithful performance of the contract work. They shall also have the right to reject any or all bids; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section eight of article eleven of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town, or municipality. [Amendment, Stats. 1891, 132.]

§ 11. Whenever the legislative branch of any municipality shall by resolution deem it necessary, they may require the treasurer of such municipality to give additional bonds for the safe custody and care of the public funds.

§ 12. The act approved March ninth, eighteen hundred and eighty-five, entitled an act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain public waterworks, and the act approved March fifteenth, eighteen hundred and eighty-seven, entitled an act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state, and all general acts, or special acts, or parts of acts, conflicting with this act, are hereby repealed.

§ 13. This act shall take effect and be in force from and after its passage.

SPECIAL TAX LEVY FOR MUNICIPAL IMPROVEMENT, see Stats. 1901, 296.—City of Santa Cruz vs. Enright, 95 Cal. 105, 112, 20 Pac. Rep. 197. §§ 1, 2—Derby vs. City Modesto, 104 Cal. 515, 519, 38 Pac. Rep. 900; Rice vs. Board Trustees, 107 Cal. 398, 400, 40 Pac. Rep. 551. §§ 1-3—In re Wetmore vs. City Oakland, 99 Cal. 146, 147, 33 Pac. Rep. 769. § 4—Hammond vs. San Leandro, 135 Cal. 450, 453, 67 Pac. Rep. 692. § 6—Murphy vs. City San Luis Obispo, 119 Cal. 624, 625, 51 Pac. Rep. 1085, 39 L. R. A. 444; Meyer vs. City San Diego, 121 Cal. 102, 103, 66 Am. St. Rep. 22, 53 Pac. Rep. 424, 41 L. R. A. 762; City Los Angeles vs. Hance, 122 Cal. 77, 78, 54 Pac. Rep. 387; Irwin vs. Exton, 125 Cal. 622, 623, 58 Pac. Rep. 257; City San Luis

Obispo vs. Fitzgerald, 126 Cal. 279, 280, 58 Pac. Rep. 699; Los Angeles vs. Hance, 130 Cal. 278, 279, 62 Pac. Rep. 484; Redondo Beach vs. Cate, 136 Cal. 146, 147, 68 Pac. Rep. 586. § 7—Skinner vs. City Santa Rosa, 107 Cal. 464, 465, 40 Pac. Rep. 742, 29 L. R. A. 512n. § 10—Peckham vs. City Watsonville, 138 Cal. 242, 243, 71 Pac. Rep. 169. See Stats. 1899, 105, relating to surplus of such tax.

Stats. 1889, 94.—Derby vs. City Modesto, 104 Cal. 515, 519, 38 Pac. Rep. 900; Skinner vs. City Santa Rosa, 107 Cal. 464, 465, 40 Pac. Rep. 742, 29 L. R. A. 512n.

Stats. 1891, 84.—Irwin vs. Exton, 125 Cal. 622, 624, 58 Pac. Rep. 257.

Stats. 1891, 132.—Meyer vs. City San Diego,

121 Cal. 102, 103, 53 Pac. Rep. 434, 41 L. R. A. 762; *Irwin vs. Exton*, 125 Cal. 622, 624, 58 Pac. Rep. 257.

Stats. 1893, 61, § 6.—*Skinner vs. City Santa Rosa*, 107 Cal. 464, 465, 40 Pac. Rep. 742, 29 L. R. A. 512n; *Meyer vs. City San Diego*,

121 Cal. 103, 66 Am. St. Rep. 22, 53 Pac. Rep. 434, 41 L. R. A. 762; *City Los Angeles vs. Hance*, 122 Cal. 77, 78, 54 Pac. Rep. 387; *Irwin vs. Exton*, 125 Cal. 622, 624, 58 Pac. Rep. 257.

MUNICIPAL CORPORATIONS—IMPROVEMENT BONDS.

Authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof.

(Stats. 1901, 27, ch. XXXII.)

§ 1. Any city, town or municipal corporation incorporated under the laws of this state, may as hereinafter provided incur indebtedness to pay the cost of any municipal improvement requiring an expenditure greater than the amount allowed for such improvement by the annual tax levy.

§ 2. Whenever the legislative branch of any city, town or municipal corporation shall, by resolution passed by vote of two thirds of all its members and approved by the executive of said municipality, determine that the public interest or necessity demands the acquisition, construction or completion of any municipal improvement, including bridges, waterworks, water rights, sewers, light or power works or plants, buildings for municipal uses, school-houses, fire apparatus, and street work, or other works, property or structures necessary or convenient to carry out the objects, purposes and powers of the municipality, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality, it may at any subsequent meeting of such board, by a vote of two thirds of all its members, and also approved by said executive, call a special election and submit to the qualified voters of said city, town or municipal corporation the proposition of incurring a debt for the purpose set forth in said resolution, and no question other than the incurring of the indebtedness for said purpose shall be submitted; provided, that propositions of incurring indebtedness for more than one object or purpose may be submitted at the same election. The ordinance calling such special election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the proposed public improvements, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness, and shall fix the date on which such special election will be held, the manner of holding such election and the voting for or against incurring such indebtedness, and in all particulars not recited in said ordinance such election shall be held as provided by law for holding municipal elections in such municipality.

§ 3. Such ordinance shall be published once a day for at least seven days in some newspaper published at least six days a week in such municipality, or once a week for two weeks in some newspaper published less than six days a week in such municipality, and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published less than six days per week. In municipalities where no such newspaper is published, such ordinance shall be posted in three public places therein for two succeeding weeks. No other notice of such election need be given. It shall require the votes of two

thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided; provided, however, should the proposition so submitted at such election fail to receive the requisite number of votes of the qualified voters, voting at such election to incur the indebtedness for the purpose specified, the legislative branch of such municipality shall have no power or authority within one year after such election to call or order another election for incurring any indebtedness for improvements substantially the same as voted upon at such prior election, unless a petition, signed by a majority of the taxpayers on the latest assessment roll of such municipality, be filed with such municipality, requesting that such proposition or a proposition substantially the same be submitted at an election to be called for the submission of such proposition and to be held in accordance with the provisions of this act.

§ 4. No city, town or municipal corporation shall incur an indebtedness for public improvements which shall in the aggregate exceed fifteen per centum of the assessed value of all the real and personal property of such city, town or municipal corporation.

§ 5. All municipal bonds issued under the provisions of this act shall be payable substantially in the manner following: A part to be determined by the legislative body of the municipality, which shall be not less than one fortieth part of the whole amount of such indebtedness, shall be paid each and every year on a day and date, at the city treasury, to be fixed by the legislative branch of the municipality issuing the bonds, together with the interest on all sums unpaid at such date. The bonds shall be issued in such denominations as the legislative branch of the municipality may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars, and shall be payable on the day and at the place fixed in such bond, and with interest at the rate specified in the bond, which rate shall not be in excess of six per centum per annum and shall be payable semi-annually, and said bonds shall be signed by the executive of the municipality, and also by the treasurer thereof, and shall be countersigned by the clerk. The coupons of said bonds shall be numbered consecutively and signed by the treasurer.

§ 6. Such bonds may be issued and sold by the legislative branch of the city, town or municipal corporation as they may determine, but for not less than their par value, and the proceeds of such bonds shall be placed in the municipal treasury to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in the ordinance.

§ 7. The legislative branch of said city, town or municipality shall at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of said city, town or municipality set apart for that purpose to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds, and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are

collected, and be used for no other purpose than the payment of said bonds and accruing interest.

§ 8. It shall be the duty of the legislative branch of every city, town or municipal corporation, wherein public improvements are being made under the provisions of this act, to make all needful rules and regulations for carrying out and maintaining such improvements, to appoint all needful agents, superintendents and engineers to properly look after the construction and operation of such public works, and in all lawful ways to protect and preserve the rights and interests of the municipality; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section eight of article eleven of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town or municipality.

§ 9. All contracts for the construction or completion of any public works or improvements, or for furnishing labor or materials therefor, as herein provided, shall be let to the lowest responsible bidder. The legislative branch of the municipality shall advertise, for at least ten days, in one or more newspapers published in the municipality, inviting sealed proposals for furnishing the labor and materials for the proposed improvements, before any contract shall be made therefor. The said legislative branch shall have the right to require such bonds as they may deem best from the successful bidder, to insure the faithful performance of the contract work. They shall also have the right to reject any and all bids; provided, however, that in cities, towns or municipalities operating under a charter heretofore or hereafter framed under section eight of article eleven of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town or municipality.

§ 10. Whenever the legislative branch of any municipality shall by resolution deem it necessary, they may require the treasurer of such municipality to give additional bonds for the safe custody and care of the public funds.

§ 11. All acts and parts of acts in conflict with this act are hereby repealed.

§ 12. This act shall not be deemed to repeal, conflict with or modify any provision of any statute of this state concerning the levy of special taxes for specific public improvements when bond issues are not contemplated.

§ 13. This act shall take effect immediately.

Town Mill Valley vs. House, 142 Cal. 698, 700, 76 Pac. Rep. 658; *Law vs. San Francisco*, 144 Cal. 384, 391, 77 Pac. Rep. 1014.

See next following statute.

MUNICIPAL CORPORATIONS—IMPROVEMENT TAX.

To provide for the disposal of money raised by cities or towns for public improvement after the same has been completed and paid for.

(Stats. 1899, 105, ch. XCI.)

§ 1. Whenever any city or town hereafter raises, or has heretofore voted to raise, any sum of money for a specific public improvement, and after such

improvement has been fully completed and paid for, a residue remains, for the disposition of which there is now no provision of law, such residue shall be paid into the general fund of such city or town and form part thereof.

MUNICIPAL CORPORATIONS—SPECIAL IMPROVEMENT TAX.

Providing for the levy of a special tax for specific public improvements within municipalities.

(Stats. 1901, 296, ch. CXXXVII.)

§ 1. Whenever it shall be determined by the legislative body of any municipality within the state of California that the public interest of such municipality demands the acquisition, construction or completion of any municipal improvement, including bridges, waterworks, water rights, sewers, light or power works or plants, buildings for municipal uses, fire apparatus and street work, or other works, property or structures necessary or convenient to carry out the objects, purposes and powers of the municipality the cost of which will be too great to be paid out of the revenues of the municipality to be received during the fiscal year, or years, in which such improvement is proposed to be made, a special tax, not to exceed the sum of fifty cents on each one hundred dollars, may be levied on the property assessed for purposes of taxation within said municipality, which said rate of taxation may be in addition to the annual rate of taxation allowed by law to be levied therein.

§ 2. Before said tax shall be levied by the legislative body of a municipality the question of the levy of such tax shall be submitted to the voters of the municipality at any general or special municipal election, or at a special election to be held for that purpose, and if two thirds of the votes cast upon the proposition of levying such tax shall be in favor of the levy thereof, then the levy shall be made; otherwise, the tax shall not be levied. Upon the ballots used at such election, the proposition to be voted for shall be stated in appropriate words and the same arranged so that the voter may indicate his choice upon the proposition. If a special election is held, the same shall be held and conducted as are other elections within the municipality.

§ 3. At least two weeks before such election is held the legislative body of the municipality shall adopt an ordinance calling and providing for the same, wherein it shall be stated:

1. The nature of the proposed improvement for the cost of which the special tax shall be levied;
2. The total amount of money to be raised for such improvement;
3. The annual rate of taxation to be levied.

§ 4. At the time fixed by law for the levying of taxes within the municipality, the legislative body thereof shall include the special tax herein provided for, which shall be the rate specified in the ordinance calling said election, nor shall it be levied for a longer period of years than shall be sufficient to raise the amount of money specified in said ordinance. The proceeds of said special tax shall be set apart in a special fund and shall only be expended for the purposes of making the improvement stated in said ordinance; provided, that any balance remaining after said improvement shall have been fully completed and paid for may be transferred to the general fund of the municipality.

§ 5. This act shall not be deemed to repeal, conflict with or modify any provision of any statute of this state concerning the incurring of a bonded indebtedness by municipalities for public improvements.

§ 6. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—"IMPROVEMENT ACT OF 1901"— STREETS.

To provide for local improvements upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities, such act to be known as "The Local Improvement Act of 1901."

(Stats. 1901, 34, ch. XXXVIII.)

§ 1. All streets, lanes, alleys, places, or courts in the municipalities of this state, now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and be held to be open public streets, lanes, alleys, places, or courts, for the purposes of this act, and the legislative body of each municipality is hereby empowered to establish and change the grades of said streets, lanes, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in section two of this act, under the proceedings hereinafter described.

§ 2. Whenever the public interest or convenience may require, the legislative body is hereby authorized and empowered to order the whole, or any portion, either in length or width, of the streets, avenues, lanes, alleys, courts, or places of any such municipality graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, graveled or regraveled, piled or repiled, capped or recapped, sewerred or re sewerred, supplied or resupplied with drains for storm water or other purposes, and to order sidewalks, parkways, manholes, catch-basins, culverts, cesspools, gutters, tunnels, curbing, and crosswalks to be constructed therein, or to order breakwaters, levees, or walls of rock, or other material, to protect the same from overflow or injury, and to order any other work to be done which shall be necessary to complete the whole or any portion of said streets, avenues, sidewalks, lanes, alleys, courts, or places, and it may order any of the said work to be improved, and also to order a sewer or sewers, with outlets, for drainage or sanitary purposes, in, over, or through any right of way granted or obtained for such purpose; and to provide for the maintenance of any such work.

§ 3. Before ordering any work done or improvement made which is authorized by section two of this act the legislative body shall pass a resolution referring the proposed work to the city engineer, if there be one, and if not, to some civil engineer employed by them for the purpose and named in the resolution, and instructing him to make to the legislative body a report in writing, containing his recommendations as to the best method of doing said work or of making said improvement, to which report shall be attached the exhibits hereinafter referred to.

§ 4. Thereafter, the said engineer shall file with the clerk of the municipality the report called for by section three above, and annex thereto the following exhibits, to wit:

1. A description of the work to be done; said work may include one or more streets in the same proceeding;

2. A description of the exterior boundaries of the district which will be benefited by the proposed improvement and should be specially assessed to pay the cost thereof;

3. Plans, profiles, cross-sections and specifications of the work required in order to accomplish said improvement;

4. An estimate of the expense of said improvements, deducting therefrom the estimated cost of so much, if any, of said improvements as may be by law required to be done by railroads having tracks upon the streets affected;

5. A map showing the district above referred to, and also the subdivisions of the property within said district, as ascertained by said engineer, each of which subdivisions shall be given upon said map a separate number in red ink;

6. A list referring to the said subdivisions upon said map by the respective red ink numbers thereof, and showing the names of the owners, if known, otherwise designating them as unknown, and the valuations of said respective subdivisions, as the same appear upon the last assessment roll of said municipality, if they so appear, otherwise as estimated by said engineer, also the dimensions, areas, and his estimates of the benefits which the respective parcels will receive from said improvement;

7. An estimate of all incidental expenses likely to be incurred in connection with the work, such as clerical, engineering, inspection, printing and advertising.

§ 5. After the report of the engineer provided for in the next preceding section has been filed with the clerk of the municipality, the legislative body of said municipality shall consider the same and shall have power, by resolution, to adopt the same as filed by said engineer, or as modified by the legislative body, and levy the assessment accordingly, but the same shall not constitute a lien until all parties interested have had an opportunity to be heard as hereinafter provided; in the same resolution the legislative body shall set forth the following:

1st. The rate of interest to be charged upon deferred payments;

2d. The time to be allowed upon deferred payments;

3d. The rate of interest to be allowed upon bonds issued to cover deferred payments;

4th. The time for which bonds issued to cover deferred payments are to run;

5th. The day and hour when and where any and all persons may appear before the legislative body and show cause, if any they have, why said improvement provided for in said resolution should not be carried out in accordance therewith; said time to be not less than thirty nor more than sixty days from the date of passage of said resolution;

6th. A description of the exterior boundaries of the district declared by the legislative body to be benefited by the proposed improvement and assessed to pay the costs and expenses thereof.

The rate of interest above referred to shall not exceed seven per centum, and in the same resolution the legislative body shall provide, if they so determine, that the work covered by said resolution shall include maintenance thereof for a stated number of years to be fixed by said resolution.

§ 6. After the passage of the resolution mentioned in section five hereof there shall be conspicuously posted in three of the most public places within the municipality, and also along the street frontages of all the real property within the district, at not more than one hundred feet in distance apart, notices of the hearing provided for in section five; said notices shall be headed, "Notice of Local Improvement," in letters of not less than one inch in length, and shall in legible characters state the fact of the passage of the resolution mentioned in section five, and briefly describe the work or improvement proposed, and refer to said resolution for further particulars; said notice shall also state the date, hour and place for which the said hearing has been set, and shall notify all parties interested in any real estate within the limits of said district then and there to show cause, if any they have, why the said improvements proposed in said resolution should not be carried out in accordance therewith; said notice shall also contain a description of the district covered by the resolution by the exterior boundaries thereof, said description to be in bold-face type; said notices must be posted at least twenty days before the time set for the hearing, and must be published twice in some newspaper of general circulation, published within the municipal corporation in which the improvements are to be made, at least ten days before the date of hearing.

§ 7. At the time named in the notice hereinbefore provided for[,] for said hearing[,] there shall be filed with the legislative body an affidavit that the notice has been posted as hereinbefore provided for, and an affidavit of the printer or publisher of the newspaper in which said notice has been published that the same has been published as hereinbefore provided for, and the legislative body, before proceeding with said hearing, shall have entered upon the minutes of the meeting an order reciting that notice of said hearing has been posted and published according to law, and such recitals shall be conclusive evidence of the facts therein recited, and the legislative body shall thereupon proceed with the hearing of any objections which shall have been made in writing and filed with the clerk of the municipality not later than the hour for hearing named in said notice, and no other objections shall be considered. Said hearing may be continued from time to time by the legislative body, and all parties interested shall be deemed to have notice of said continuances. All objections must be in writing, must contain a description of the property in which the objector is interested, and set forth the nature of his title thereto or interest therein, and must state the objector's ground of opposition, and must be signed and verified by the objector himself, or his attorney in fact, and objections which do not comply with these requirements shall not be considered by the said legislative body.

§ 8. At the close of the hearing provided for in the preceding section, the legislative body shall pass a resolution setting aside, modifying, or confirming the resolution provided for in section five hereof, and where the same is confirmed or modified, the lien of the assessment provided for therein shall immediately become attached to the respective parcels of land in accordance with said confirmed or modified resolution.

§ 9. Any action to contest an assessment levied by the legislative body of any municipality under the terms of this act must be commenced within thirty days after the entry upon the minutes of such legislative body of the resolution pro-

vided for in the preceding section hereof; and any appeal from a final judgment in such an action must be perfected within thirty days after the entry of such judgment.

§ 10. After the expiration of thirty days from the passage of the resolution provided for in section eight hereof, the clerk of the municipality shall transmit to the tax collector of the municipality the map and list provided for in subdivisions five and six, respectively, of section four hereof, and any modification made by the legislative body therein; provided, however, if any actions have been brought within thirty days after the passage of the resolution referred to in section eight, such transmission shall be postponed until such actions have been finally determined.

§ 11. Upon the receipt of the map and list referred to in the last preceding section, the tax collector of the municipality shall record the same in a substantial book to be kept for that purpose in his office. Said book shall also be ruled with appropriate columns, in which the tax collector shall extend the amounts of all instalments of principal and interest and deferred payments, and each of said columns shall be provided with a space in which he shall make record of the fact and date of all payments received by him; and there shall also be a column in which shall be entered a reference by volume and page to the respective agreements under which said deferred payments are made.

§ 12. The tax collector of the municipality shall thereupon fix a day, not less than thirty nor more than forty days from the date of the receipt by him of the map and list transmitted to him under the provisions of section ten hereof, which day shall be the last day for cash payments; and also shall fix a day for the sale of the various parcels of land within said district, which said day shall be not less than forty nor more than sixty days from the receipt by him of the map and list transmitted to him under the provisions of section ten hereof; notice thereof shall be given in conformity with the general laws of the state of California providing for notice of sale of real estate upon execution, and shall be posted and published in the same manner as such notices; provided, however, that the descriptions of the various parcels need not be set out at length, but only by the respective numbers of the same, as the same appear upon the assessment and diagram, which shall be properly referred to in said notice; which shall be in one writing, containing all of said descriptions.

§ 13. At the time and place fixed for the sale of said property by the terms of the notice referred to in the last section, the tax collector shall sell the respective parcels of land within said district, the assessments against which have not been paid or bonded against as hereinafter provided, or so much of each parcel as shall be necessary to realize the amount assessed against such parcel and its proportion of the expenses of sale, in the order of their numbers upon the map provided for in subdivision five of section four hereof, at which sale the municipality may be a purchaser; provided, however, if at or before the time fixed in the notice of sale the owner of any parcel shall file with the tax collector a written agreement, waiving all objections, of whatsoever kind or nature, against the assessment and all proceedings with reference to the same, and undertaking to pay the assessment on his parcel in yearly instalments not to exceed ten in num-

ber, the first of which shall be paid at the time said agreement is filed, and the others annually thereafter, one each year, at the time when the first instalment of municipal taxes within said municipality is payable, with interest on all deferred payments at the rate of — per centum per annum, being the same rate fixed by the resolution provided for in section five above for deferred payments, payable at the same time as the instalments of principal, then, and in that event, the tax collector shall mark upon the record of the assessment, opposite the respective descriptions or numbers of such parcels, memoranda to the effect that time has been given; said waivers and undertakings shall be taken upon printed forms provided by the tax collector, bound in a substantial book and kept among the records of his office; said agreements shall contain a provision to the effect that in case of default in payment of any instalment of principal provided for therein, or interest accrued on deferred payments, at the time called for by said agreements, then, in that event, the entire remaining unpaid instalments shall become immediately due and payable, and the tax collector shall then forthwith, upon twelve days' written notice mailed to the last known address of the party, sell the property covered by the delinquent payment to realize the entire unpaid balance of said instalments, with accrued interests, and costs of sale; provided, the same have not been paid before the expiration of said twelve days. At such sale the municipality may be a bidder; said agreement shall provide that the entire unpaid balance may be paid at any time before maturity, together with interest on all deferred payments, until the date of maturity of the instalment of principal next falling due.

§ 14. The tax collector shall issue for each sale an original and duplicate certificate of sale, referring to the proceedings, describing the parcels sold, and containing the name of the purchaser; the originals he shall deliver to the purchaser, and the duplicates he shall keep on file in his office in the form of stubs in a certificate book.

§ 15. If the property sold as provided in the above proceedings be not redeemed within one year after the sale, the tax collector shall then issue to the party named in the original certificate, or his assignee, a deed of the property described in said certificate, which said deeds shall refer, in general terms, to the proceedings under which the same is issued, and shall contain a description of the property, following the description in the certificate; the grantee of such deed is, immediately upon receipt thereof, entitled to possession of the property described therein.

§ 16. At any time before the expiration of the year above provided for, in which redemption may be made, any property sold under the provisions of the preceding sections may be redeemed by the payment to the tax collector of the amount for which the property was sold, with an additional penalty of twenty-five per centum of the amount for which the same was sold; all redemption money shall be paid by the tax collector to the persons holding the respective original certificates of sale, upon their delivering up the same, and receipting for the amount received from the tax collector therefor.

§ 17. The said funds collected by the tax collector under the proceedings herein provided for, either upon voluntary payment or as the result of sales, shall be paid by said tax collector, as fast as collected, to the treasurer of said munici-

pality, who shall enter the same in a special fund designated by reference to the number of the proceeding, and shall be paid out only for purposes provided for in this act.

§ 18. After all sales above provided for have been made, the tax collector shall report to the legislative body of the municipality the amount of cash collections and the amount of instalment agreements taken; at any time thereafter the legislative body may order bonds issued against the said special local improvement fund, in such denominations and on such terms, not to exceed ten years, and at such rate of interest, not to exceed seven per centum per annum, as they shall have designated in said proceedings, the aggregate of such bonds not to exceed the amount of the instalment agreements taken, as above set forth; the form of such bonds shall be substantially as follows:

“LOCAL IMPROVEMENT BOND.

“District No. —.

“\$—.

No. —.

“Under and by virtue of an act of the legislature of the state of California (title of this act) the (insert the legal title of the municipality) out of the fund hereinafter referred to, will pay to the bearer the sum of \$— United States gold coin of the same weight and fineness as that now issued from the mints of the United States of America, with interest thereon, in like gold coin, at the rate of — per centum per annum, all as hereinafter specified, and at the office of the treasurer of said municipality.

“This bond is payable exclusively from street improvement fund number — (here insert designation of special fund, as same is identified on the books of the treasurer of the municipality, as provided in section nineteen of this act), and neither the municipality nor any officer thereof shall be holden for payment otherwise of its principal or interest; and instalments of principal and interest accruing hereon shall be payable out of any moneys in said fund at the date of their maturity, in order of presentation, and shall be secured by all agreements and liens provided for by this act and arising out of the improvement to which said fund relates. The term of this bond is — years from its date, and, at the expiration of said time, the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date, an even annual proportion of its whole amount is due and payable, upon the presentation of the coupon therefor, until the whole is paid, with all accrued interest, at the rate of — per centum per annum. The interest is payable semiannually, to wit: On the second days of January and July in each year hereafter, upon the presentation of the coupons therefor, the first of which is for the interest from date to the next second day of —, and thereafter the interest coupons are for semiannual interest, except the last, which is for interest from the semiannual payment next preceding and to the date of the final maturity of this bond. Should default be made in the annual payment upon the principal, or in any payment of interest, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have all liens and agreements, which are security for said fund and are then enforceable, immediately enforced in payment thereof. The principal hereof may be paid, at the option of said municipality, at any time before maturity. Notice of such redemption must be published by the treasurer

of said municipality once in some newspaper of general circulation, published in said municipality, or at the county seat of the county in which the same is located, and, at the expiration of one month from said publication, interest on all principal sums covered by such notice shall cease.

“At said — of — the — day of — in the year one thousand — hundred and —.

“(Insert title of presiding officer of the legislative body.)”

“_____”

“Treasurer of the (name of the municipality.)”

Said bonds shall be signed by the presiding officer of the legislative body of the municipality and countersigned by the treasurer of said municipality, and the seal of the municipality shall be affixed thereto. Said coupons shall be signed by the treasurer of the municipality, and his signature thereto may be by lithograph.

Said bonds shall then be sold at not less than par to the highest bidder, for cash in United States gold coin; the proceeds shall be paid into the said special local improvement fund in the treasurer's hands.

§ 19. At any time after the funds for the work, or any part of the work, are actually in the hands of the treasurer, the legislative body may let the contract, or contracts, for such work, or the respective parts thereof; all contracts shall be let to the lowest responsible bidder, after notice published in some newspaper of general circulation published within the municipality, for two insertions, a week apart; or if there be no such newspaper, then by such posting as the legislative body may provide.

Every bid shall be accompanied by the certified check amounting to ten per centum of the bid, payable to the order of the presiding officer of the legislative body of the municipality, and the same shall be forfeited to the municipality in case the bidder depositing the same do not, within ten days after written notice that the contract has been awarded to him, enter into a contract with the municipality for the work, the faithful performance of which shall be secured by an undertaking in such penal sum as the legislative body shall require, and with sureties satisfactory to said body; when such contract and bond have been entered into, said check shall be returned to the successful bidder; the unsuccessful bidders shall receive their checks upon notice of rejection of their bids; and the legislative body may require, and, if so, it must be stated in the original resolution and petition and in the notice for bids, that the contractor to whom the work is awarded shall furnish the municipality with a bond in such sum and with such responsible surety corporation (legally qualified to carry on business in the state of California), as guarantor, as shall be approved by said legislative body, conditioned that the said contractor shall maintain free from all defects, except such as may result from ordinary wear and tear, the work contracted for and performed for such period as may be designated by said legislative body.

The contract must provide that the work be done, and the work must be done, strictly in accordance with the plans and specifications provided for in section four of this act, as modified by the resolution provided for in section five of this act; the contract must contain provisions making it comply with the terms of all statutes of the state of California in force at the time of the making of the contract, with reference to employment, hours and wages of labor.

The work must be done under the supervision of the superintendent of streets of the municipality, or such deputy or deputies as the legislative body shall appoint for the purpose.

No work shall be paid for until it has been accepted by the legislative body. Whenever the contractor desires the work or part thereof to be accepted he must make written application to that effect to the legislative body of the municipality. Upon the filing of such application for acceptance, the clerk of the municipality shall give at least five days' notice by publication within the municipality or by posting upon the premises affected, as the legislative body shall determine, that at a certain time to be named in said notice the legislative body of the municipality will hear and consider any objections to the acceptance of the work or part of the work for the acceptance of which said contractor has made such application, and only after such hearing shall any work be accepted. If upon such hearing objections to the acceptance are made and held by the legislative body to be good, the legislative body must require the contractor to take such steps as will remove such objections, and in the event of his failure to do so within such time as the legislative body shall prescribe, the legislative body may relet such portion of the work and charge the contractor the cost thereof together with all expenses incidental to said reletting, and retain the same out of any moneys due or to become due to him under the contract, and also hold him and his sureties responsible therefor upon his bond.

The work must be commenced and completed within such time as the legislative body shall prescribe. If the contractor abandon the work, or fail to proceed with the same as rapidly as required by his contract, the legislative body may relet the work and pay the cost of the same out of any funds due or to grow due the contractor, and also any expenses incidental to the reletting, and also hold him and his sureties responsible for the same upon his bond, and also for any damages resulting from such abandonment.

§ 20. In case the first assessment for any local improvement prove insufficient, a second may be made in the same manner as nearly as may be, except that no protest shall be entertained upon subject-matter already decided in the first hearing, and so on until sufficient money shall have been realized to pay for such local improvement.

§ 21. If at any time an assessment for any local improvement shall realize a larger sum than is necessary for such improvement, the excess shall be refunded upon warrant on the treasurer, authorized by the legislative body, pro rata, to the parties by whom it was paid; and, in the case of instalment assessments, shall be credited on the unpaid instalments, beginning with the one due at the latest date.

§ 22. All special assessments levied under this act shall, from the date of confirmation as provided in section eight hereof, be a lien upon the real estate upon which they are imposed, paramount to all other liens, except prior assessments and general taxes, and such lien shall continue until such special assessments are paid; and all parties shall have constructive notice of such lien from the date of entry of the resolution referred to in section eight above.

§ 23. Whenever the majority of frontage between any two consecutive crossings upon any of the public ways mentioned in section one of this act, has been

improved, the legislative body may compel the remainder of said frontage between said crossings to be similarly improved without other proceedings than those provided for in this section as follows, to wit: The legislative body shall pass a resolution ordering said work to be done, briefly describing the work and the property in front of which the work is to be done, and fixing a time when objections to the doing of said work will be heard by said legislative body, which said time shall be not less than two weeks nor more than thirty days from the date of the passage of the resolution; at least ten days before the time named in said resolution for said hearing the clerk of the municipality shall mail a copy of said resolution to the person or persons to whom the property in front of which the said work is to be done is assessed upon the last preceding assessment roll of such municipality, at their addresses if known, otherwise addressed to them care of the United States post-office in the municipality, shall personally serve upon the person or persons in possession of the premises, if the same be occupied, and shall post a copy of the same in a conspicuous place upon the said premises, and the certificate of said clerk to the effect that said mailing, posting and service has been done shall be filed with the legislative body and entered upon their minutes, and said entry shall constitute conclusive evidence of the facts stated in said certificate; at the time named in said resolution said legislative body shall meet and consider any objections which may be made to the doing of said work; if there are no objections or if the legislative body overrule the same, the legislative body shall then pass a resolution ordering said work to be done; if within ten days after the passage of the last-named resolution satisfactory evidence be not produced to the legislative body that the said work is to be immediately done by private contract the legislative body may advertise for bids for such work by such publication or posting as they shall deem necessary and let the work to the lowest responsible bidder, and pay for the same out of the general fund or any other fund available for the purpose; the entire cost of such work together with the expenses incidental to the proceedings therefor shall be charged against the property in front of which the same has been done; the clerk of the municipality shall immediately upon the completion and acceptance of the work file an itemized statement of said charge with the recorder of the county in which the municipality is located, and thereupon the said charge shall become a lien upon the property affected, which said lien shall relate back to the date of the passage of the original resolution first above mentioned and shall be continued upon such property until the same is paid in full with interest at seven per centum from the date of the record of said statement, and the municipality shall have power to enforce said lien by foreclosure suit and sell said property for the satisfaction thereof.

§ 24. This act shall be known as "The Local Improvement Act of 1901" and shall take effect and be in force upon its passage and approval.

§ 25. This act shall in nowise affect an act entitled "An act to provide for work upon streets, lanes, alleys, courts, places and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, or amendments thereto, or an act entitled "An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvement within municipalities, and also for the payment of said bonds," approved February twenty-seventh, eighteen hun-

dred and ninety-three; or any of said acts; but is intended to and does provide an alternate system of proceedings for public improvements, and it shall be within the discretionary power of the legislative body of any municipality to proceed in making such improvements, either under the provisions of this act, or under the provisions of the other said acts, but when any proceedings are commenced under this act the provisions of this act, and such amendments thereto as may hereafter be adopted, and no other, shall thereafter apply to all such proceedings; but any provision contained in said or any other acts in conflict with provisions hereof shall be void as to and of no effect upon proceedings commenced under the provisions of this act.

MUNICIPAL CORPORATIONS—INDEBTEDNESS.

Providing for the adjustment, settlement, and payment of any indebtedness existing against any city or municipal corporation at the time of exclusion of territory therefrom, and the division of the property thereof.

(Stats. 1893, 536, ch. CCXLIV.)

§ 1. That where any territory has been or shall be excluded from any city or municipal corporation, the superior court of the county in which such city or municipal corporation is situate shall, upon a verified petition of any ten taxpayers residing in such city or municipal corporation, or in the territory excluded, made for the purpose of adjusting the amount of the indebtedness of such city or municipal corporation existing at the time of the exclusion of such territory due from the excluded territory, and stating the facts of such exclusion and the amount of such indebtedness, cause notice to be given by publication thereof in a newspaper published in such city or municipal corporation, or in a newspaper published in the county in which such city or municipal corporation is situated, for ten days, stating the substance of such petition, and the time and place that the same shall be heard by said superior court, which time of hearing shall be at least fifteen days after the filing of such petition, or at any time thereafter to which such hearing may be continued by the court.

Any person, corporation, or taxpayer interested in such city or municipal corporation, or in such excluded territory, or in the adjustment and settlement of such indebtedness, may demur to or answer said petition. The rules of pleading and practice provided by the Code of Civil Procedure which are not in conflict with the provisions of this act, are hereby made applicable to the special proceedings herein provided for. The persons so demurring or answering said petition shall be the defendants to said special proceedings, and the signers of the petition shall be the plaintiffs.

Upon the hearing of such special proceedings, the court shall have power to determine the amount due from such excluded territory to the city or municipal corporation from which it was excluded as its proportion of the indebtedness of such city or municipal corporation existing at the time such territory was excluded. In fixing the amount due from such excluded territory, the said court must ascertain and find the purposes for which the said indebtedness was created; the manner and place in which the proceeds of said indebtedness were expended; the value of the property belonging to the said city or municipal corporation at the time of such exclusion; the assessed value of the property

situate in said city or municipal corporation at the time the city assessment was made immediately preceding such exclusion, and the assessed value of the excluded territory as shown by such city assessment. If the value of the property belonging to said city or municipal corporation, and which remains within the boundaries thereof after such exclusion, should exceed the value of city or municipal property situated in such excluded territory, and also exceed the pro rata portion of the indebtedness of the city or municipal corporation due from such excluded territory as shown by said assessment, the court shall find and adjudge that there is nothing due from such excluded territory. After such finding is made, and judgment rendered by the court, such excluded territory shall not be subject to the payment of any such indebtedness, and all property belonging to such city or municipal corporation remaining within its boundaries shall belong exclusively to it.

If the court finds, after deducting the value of the city or municipal property from the value of that in the excluded territory, and the pro rata portion of the indebtedness to be borne by such excluded territory, a balance due from such excluded territory, it shall render judgment accordingly, and the amount of such judgment shall be collected and paid in the same manner and at the same time that the assessment is levied for, and the collection of the annual municipal taxes is made upon the property remaining in such city or municipal corporation for any payment on account of such indebtedness; provided, however, that any such territory excluded from any city or municipal corporation may, at any time, tender to the legislative body of such city or municipal corporation the amount for which such excluded territory is liable on account of such indebtedness; and after such tender is made the authority of such city or municipal corporation to levy and assess taxes on such excluded territory shall forever cease.

§ 2. This act shall take effect and be in force from and after its passage.

Johnson vs. City San Diego, 109 Cal. 468, 472. 42 Pac. Rep. 249, 30 L. R. A. 178.

Popular vote as to paying indebtedness.—An act authorizing cities of not less than

26,000 nor more than 30,000 to vote upon the question of paying certain indebtedness (1891, 8, ch. XII) has evidently served its purpose, and is omitted.

MUNICIPAL CORPORATIONS—JUDGMENTS.

Prescribing how judgments which may be recovered against any city and county of over one hundred thousand population shall be paid.

(Stats. 1895, 163, ch. CLIX.)

§ 1. All existing judgments against any city and county of over one hundred thousand population shall be paid by the treasurer of such city and county, out of the or any general fund thereof, after the same shall have been audited by the auditor, auditing officer, board, or other auditing officer or officers, and it is hereby made the duty of the board of supervisors and mayor of such city and county to include in the tax levy for any fiscal year a sum sufficient to pay existing judgments.

§ 2. This act shall take effect and be in force immediately after its passage.

See next succeeding statute.

MUNICIPAL CORPORATIONS—JUDGMENTS.

To provide for the payment of judgments against counties, cities, cities and counties, and towns.

(Stats. 1901, 794, ch. CCXXXVI.)

§ 1. All final judgments now existing or that may be obtained hereafter against any county, city and county, city, or town of the state of California, shall be paid by the treasurer of such county, city and county, or town, as hereinafter provided.

§ 2. It shall be the duty of the county clerk to file with the auditor and to furnish the board of supervisors, town trustees, or other board or body authorized by law to levy taxes, a complete list of all the existing final judgments against such county, city and county, city, or town, of record in his office, at least fifteen days before the day on which any tax levy must by law be made.

§ 3. It shall be the duty of the auditor to examine and audit the final judgments so reported by the county clerk, and to certify the amount of such final judgments to the treasurer within five (5) days from the day on which such list of final judgments is filed with him. Thereupon, the board of supervisors, city council, town trustees, or other board of [or] officers, as the case may be, having authority to levy taxes upon the taxable property of such county, city and county, city, or town, must include in the tax levy for the next fiscal year a rate or sum sufficient to pay all final judgments existing against such county, city and county, city, or town. The omission to include the amount of any existing final judgment in the tax levy for any year, shall not of itself invalidate the tax levy as made, but such omission or omissions must be included in the next tax levy; provided, that the board of supervisors or other board or officers having authority to levy taxes may provide for the payment of such final judgments when so audited by including in the tax levy for the next fiscal year an aliquot part or fraction of the amount of such judgments, and thereupon the treasurer shall pay to each judgment creditor a like aliquot part or fraction of the amount of the judgment of the creditor, and thereafter a like aliquot part or fraction of the amount of such judgments shall be levied and paid each successive year until the whole thereof shall be fully paid; but such fractional levy and payment shall in no case be less than one tenth ($\frac{1}{10}$) of the whole amount of such judgments.

§ 4. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—LIGHT.

To provide for the lighting of public streets, lanes, alleys, courts and places in municipalities, and for the assessment of the costs and expenses thereof upon the property benefited thereby.

(Stats. 1905, 564, ch. CDXIX.)

§ 1. Whenever the public interest or convenience may require, the city council of any municipality in the state shall have full power and authority to order poles, posts, wires, pipes, conduits and lamps, or any of said appliances, or any other suitable and necessary appliances, to be installed in and along the whole or any part of any public street, lane, alley, court or place in such municipality,

for the purpose of lighting the same; also to order appliances in and along the same, installed under this act, or otherwise installed and owned or controlled by such municipality, to be maintained; and also to order gas, electric current, or other illuminating agent, to be furnished for such lighting: in the manner and under the proceedings hereinafter described.

§ 2. Before ordering any improvement to be made, which is authorized by section one of this act, the city council shall adopt a resolution declaring its intention to do so, briefly describing the proposed improvement, which may include the whole or any part of one or more streets, lanes, alleys, courts or places, and specifying the exterior boundaries of the district to be benefited by said improvement and to be assessed to pay the cost and expenses thereof, and to be known as the assessment district. Said proposed improvement may include any or all of the different kinds of work mentioned in section one of this act; provided, however, that the maintenance of appliances or the furnishing of gas, electric current or other illuminating agent, shall be for a period stated in the resolution of intention, but not exceeding two years. The city council shall also, in the same resolution, refer the proposed improvement to the city engineer, if there be one, and if not, to some competent person employed by the municipality for the purpose and named in said resolution, and direct him to make and file with the clerk of the city council a report in writing presenting the following:

1. Plans and specifications for the work required in order to make said improvements;
2. An estimate of the cost of said improvement and of the incidental expenses in connection therewith;
3. A diagram showing the district above referred to, and also the boundaries and dimensions of the respective subdivisions of the land within said district, each of which subdivisions shall be given a separate number in red ink upon said diagram.
4. A proposed assessment of the total amount of the costs and expenses of the proposed improvement upon the several subdivisions of land in said district in proportion to the estimated benefits to be received by such subdivisions, respectively, from said improvement. Said assessment shall refer to such subdivisions upon said diagram by the respective red ink numbers thereof, and shall show the names of the owners, if known, otherwise designating them as unknown. No mistake in the name of the owner of any parcel of land shall affect the validity of the assessment thereon.

In any municipality having a board of public works created by its charter or by law, the proposed improvement shall be referred to said board, and the report provided for herein shall be made by said board.

§ 3. Upon the filing of the report provided for in section two of this act, the said clerk shall present the same to the city council for consideration, and said council may modify the same in any respect, and, in case of any such modification, the report as modified shall stand as the report for the purpose of all subsequent proceedings. Thereafter the council, by resolution, shall appoint a time and place for hearing protests in relation to the proposed improvement, which time shall not be less than twenty days from the date of the passage of said resolution, and shall direct the clerk of the city council to give notice of

said hearing, and shall designate the newspaper in which such notice shall be published.

§ 4. After the passage of the resolution mentioned in section three of this act, the clerk of said city council shall cause to be conspicuously posted along all streets and parts of streets within the assessment district described in the resolution of intention, at not more than three hundred feet in distance apart, notices (not less than three in all), of the passage of said resolution of intention and of the filing of said report. Said notices shall be headed "Notice of Local Improvement," in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said resolution of intention and of the filing of said report, and the date set for the hearing of said protests, and briefly describe the improvement proposed, and refer to said resolution and report for further particulars. He shall also cause a notice similar in substance to be published for a period of two days in a daily newspaper published and circulated in said municipality, and designated by said city council for that purpose, or if there is no daily newspaper in said municipality, then by two successive insertions in a weekly paper, so published, circulated and designated. Said notices must be posted and published, as above provided, at least ten days before the date set for the hearing of said protests.

§ 5. Any person interested, objecting to said improvement, or to the extent of the assessment district, or to the proposed assessment provided for in section two of this act, may file a written protest with the clerk of the city council at or before the time set for the hearing referred to in section three hereof. The clerk shall indorse on every such protest the date of its reception by him, and at the time appointed for the hearing above provided for, shall present to said city council all protests so filed with him. If such protests are against said improvement and said city council finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, all further proceedings under said resolution of intention shall be barred and no new resolution of intention for the same improvement shall be passed within six months after the presentation of such protests to the city council, unless the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district shall in the mean time petition therefor. If such protests are against the improvement and the council finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, or if such protests are against the extent of the assessment district, the council shall hear said protests at the time appointed therefor, as above provided, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision shall be final and conclusive, and if such protests are sustained the proceeding shall be abandoned, but may be renewed at any time, and if such protests are denied, the proposed assessment shall be confirmed. If such protests are against the proposed assessment, the council shall hear said protests at the time appointed therefor as above provided, or at any time to which the hearing thereof may be adjourned, and may confirm, modify or correct said proposed assessment.

When, upon the hearing, said proposed assessment is confirmed, modified or corrected, or in case no protests are filed, the report provided for in section two

hereof shall be adopted as a whole, with any modifications or corrections that have been made therein, and the city council shall by resolution order said proposed improvement to be made, and declare its action upon said report and assessment, which resolution shall be final and conclusive on all persons, and the assessment shall be thereby levied upon the respective subdivisions of land in the assessment district.

§ 6. The validity of an assessment levied under this act shall not be contested in any action or proceeding unless the same is commenced within thirty days after the time said assessment is levied, and any appeal from a final judgment in such an action or proceeding must be perfected within thirty days after the entry of such judgment.

§ 7. Upon the passage of the resolution provided for in section five hereof, the clerk of said city council shall transmit to the tax collector of the municipality, the diagram and assessment provided for in subdivisions three and four of section two hereof, and any modifications or corrections thereof made by said city council.

§ 8. Upon the receipt of the diagram and assessment referred to in the last preceding section, the tax collector of the municipality shall record the same in a substantial book, to be kept for that purpose, in his office, and shall thereupon fix a day not less than twenty, nor more than thirty, days from the date of the receipt by him of said diagram and assessment after which all assessments unpaid shall become delinquent and ten per centum shall be added to the amount thereof, and shall also fix a day for the sale of the various parcels of land within said district upon which the assessments are unpaid, which said date shall be not less than fifty days nor more than sixty days from the date of the receipt by him of said diagram and assessment.

§ 9. Notice of the sale of property upon which the said assessments are delinquent shall be given by said tax collector by posting and publication in the manner now provided by the general laws of the state of California, for giving notice of sale of real estate upon execution, provided, however, that the descriptions of the various parcels of land need not be set out at length, but only by the respective numbers of the same as they appear upon the assessment and diagram, which shall be properly referred to in said notice, and said descriptions shall all be contained in one notice. At the time and place fixed for the sale of said property the tax collector shall separately sell the respective parcels of land within said district the assessments against which have not been paid, or so much of each parcel as shall be necessary to realize the amount assessed against said parcel, said ten per centum penalty for delinquency, and its proportion of the expenses of sale, in the order of their numbers upon said diagram. At said sale the municipality may be a purchaser.

§ 10. The tax collector shall issue for each sale an original and a duplicate certificate of sale, referring to the proceedings, describing the parcel sold, and giving the name of the purchaser and the amount for which said parcel was sold. The original certificate he shall deliver to the purchaser, and the duplicate he shall keep on file in his office in the form of a stub in the certificate book.

§ 11. At any time before the expiration of one year from the date of the sale, any property sold under the provisions of the preceding sections may be

redeemed by the payment to the tax collector of the amount for which the property was sold, with an additional penalty of twenty-five per centum of said amount. Said redemption money shall be paid by the tax collector to the person holding the original certificate of sale upon his delivering up the same and receipting for the amount received from the tax collector therefor. Upon redemption of any parcel of land the tax collector shall enter the fact and date of such redemption upon the duplicate certificate of sale thereof.

§ 12. If the property is sold, and is not redeemed within said period of one year from the date of the sale, the tax collector shall execute to the person named in the original certificate, or to his assignee, a deed of the property described in said certificate, which said deed shall refer in general terms to the proceedings under which the same is issued, and shall contain a description of the property. Such deed shall convey title in fee to said property, and the grantee is immediately, upon the receipt thereof, entitled to possession of the property described therein.

§ 13. The funds collected by the tax collector under the proceedings herein provided for, either upon voluntary payment, or as the result of sales, shall be paid by said tax collector, as fast as collected, to the treasurer of said municipality, who shall place the same in a special fund designated by the number or name of the proceeding, and payments shall be made out of said special fund only for the purposes provided for in this act. To expedite the making of any such improvement, the city council may at any time transfer into said special fund, out of any money in the general fund, such sums as it may deem necessary, and the sums so transferred shall be deemed a loan to such special fund and shall be repaid out of the proceeds of the assessments provided for in this act.

§ 14. At any time after the funds for the work, or any part of the work, shall be in the hands of said treasurer, the city council may let the contract or contracts for such work, or the respective parts thereof. Every such contract shall be let to the lowest responsible bidder, after notice published by two insertions in some newspaper published in such municipality and designated by the city council for that purpose, or if there be no such newspaper, then by such posting as the city council may provide.

Every bid shall be accompanied by a certified check, amounting to ten per centum of the bid, payable to the order of the clerk of said city council, and the same shall be forfeited to the municipality in case the bidder depositing the same does not, within ten days after written notice that the contract has been awarded to him, enter into a contract with the municipality for the work, the faithful performance of which shall be secured by an undertaking in such penal sum as the city council shall require, with sureties satisfactory to said council.

The contract must provide that the work shall be done, and the work must be done, strictly in accordance with the plans and specifications contained in the report provided for in sections two and three of this act. The work must be done under the supervision of the board, officer or person by whom the report provided for in section two of this act was made, and no work shall be paid for until it has been accepted by said board, officer or person and by said city council.

If the contractor abandons the work or fails to proceed with the same as rapidly as required by his contract, the said city council may relet the work

in the same manner as in the case of the first letting thereof, and retain the cost of the same, and also any expense incidental to the reletting, out of any funds due or to become due to the contractor, and also hold him and his sureties responsible for such cost and expense, and for any damages resulting from such abandonment or failure upon his bond.

§ 15. In case the first assessment for any improvement provided for in this act proves insufficient, a supplemental assessment may be made to raise the deficit, in the same manner as nearly as may be, as the first assessment, except that protests may only be made to such supplemental assessment, and so on until sufficient money shall have been realized to pay for such improvement.

§ 16. If at any time an assessment for any such improvement shall realize a larger sum than is necessary therefor, the excess shall be refunded pro rata to the parties by whom it was paid.

§ 17. Every special assessment levied under this act shall, from the date of the levy thereof, be a lien upon the land upon which it is levied paramount to all other liens, except prior assessments and taxation, and such lien shall continue until such special assessment is paid, or until the property is sold and a deed is made therefor to the purchaser as hereinbefore provided, and all parties shall have constructive notice of such lien from the date of the passage of the resolution referred to in section five hereof.

§ 18. The following words and phrases shall, where used in this act, have the following meanings:

(1) The term "improvement" includes all work and improvements mentioned in section one of this act.

(2) The terms "municipality" and "city" include every incorporated city, city and county, or other corporation organized for municipal purposes.

(3) The terms "city council" and "council" include any body or board in which by law is vested the legislative power of any city.

(4) The terms "treasurer" and "city treasurer" include any person or officer who has charge and makes payments of the city funds.

(5) The term "city engineer" includes any person or officer who has charge of the surveying and engineering work of said city.

§ 19. This act shall take effect and be in force from and after its passage.

See tit. Gas Companies.

MUNICIPAL CORPORATIONS—MAPS.

Requiring the recording of maps of cities, towns, additions to cities or towns, or subdivisions of lands into small lots or tracts for the purposes of sale, and providing a penalty for the selling or offering for sale any lots or tracts in cities, towns, additions to cities, towns, subdivisions, or additions thereto, before such maps are filed and recorded.

(Stats. 1893, 96, ch. LXXX; amended 1901, 288, ch. CXXIV.)

§ 1. Whenever any city, town, or subdivision of land into lots, or any addition to any city, town, or such subdivision, shall be laid out into lots for the purposes of sale, the proprietor or proprietors thereof shall cause to be made out an accurate map or plat thereof, particularly setting forth and describing.—

First. All the parcels of ground within such city, town, addition, or subdivision reserved for public purposes, by their boundaries, courses, and extent, whether they be intended for avenues, streets, lanes, alleys, courts, commons, or other public uses; and,

Second. All lots intended for sale, either by number or letter, and their precise length and width.

§ 2. Such map or plat shall be acknowledged by the proprietor, or if any incorporated company, by the chief officer thereof, before some officer authorized by law to take the acknowledgment of conveyances of real estate.

§ 3. The map or plat so made, acknowledged, and certified shall be presented to the governing body having control of the streets, roads, alleys, and highways in the territory shown on the map or plat, and said governing body shall indorse thereon which streets, roads, alleys, and highways, offered by said map or plat, they accept on behalf of the public, and thereupon such streets, roads, alleys, and highways, only as have been thus accepted, shall be and become dedicated to public use. When so indorsed, and not before, said map or plat shall be recorded in the office of the county recorder of the county in which the city, town, addition, or subdivision is situated, in a book kept for that purpose. The map or plat shall be not more than thirty-six inches by thirty-six inches in size, and shall be drawn in all details clearly and legibly, and if not so drawn may be refused by the county recorder. When such map or plat is presented to be recorded the county recorder shall paste the same securely in a book of maps, and it shall then be deemed to have been recorded under the provisions of this act. [Amendment, Stats. 1901, 288.]

§ 4. Every person who sells or offers for sale any lot within any city, town, subdivision, or addition, before the map or plat thereof is made out, acknowledged, filed, as herein provided, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars and not more than five hundred dollars, or by imprisonment in the county jail not to exceed six months, or both such fine and imprisonment.

MUNICIPAL CORPORATIONS—ORDINANCES.

To require ordinances and resolutions passed by the city council or other legislative body of any municipality to be presented to the mayor or other chief executive officer of such municipality for his approval.

(Stats. 1897, 190, ch. CXXIX.)

§ 1. Every ordinance and every resolution of the city council of any municipality providing for any specific improvement, or the granting of any franchise, or other privilege, or affecting real property interests, or the expenditure of more than one hundred dollars of the public moneys, or levying tax or assessment, or establishing rates for artificial light, and every ordinance or resolution imposing a duty or penalty, which shall have passed the city council, shall, before it takes effect, be presented to the mayor for his approval. The mayor shall return such ordinance or resolution to the city council within ten days after receiving it. If he approve it he shall sign it, and it shall then take effect. If he disapprove it he shall specify his objections thereto in writing. If he do not return it with such disapproval within the time above specified, it

shall take effect as if he had approved it. The objections of the mayor shall be entered at large on the journal of the city council, and the city council shall cause the same to be immediately published. The city council shall, after five, and within thirty days after such ordinance or resolution shall have been returned with the mayor's disapproval, reconsider and vote upon the same; and if the same shall, upon reconsideration, be again passed by the affirmative vote of not less than three fourths of all the members, the presiding officer shall certify that fact on the ordinance or resolution, and when so certified, it shall take effect as if it had received the approval of the mayor; but if the ordinance or resolution shall fail to receive upon the first vote thereon after its return with the mayor's disapproval, the affirmative votes of three fourths of all the members, it shall be deemed finally lost. The vote on such reconsideration shall be taken by ayes and noes, and the names of the members voting for or against the same shall be entered in the journal; provided, that the provisions of this section shall not apply to cities in which the mayor is a member of the city council, or other governing body.

§ 2. The word "municipality," and the word "city," as used in this act, shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

§ 3. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

§ 4. In municipalities in which there is no mayor, then the duties imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees, or other chief executive officer of the municipality.

§ 5. This act shall take effect and be in force from and after its passage, and all acts and parts of acts in conflict with this act are hereby repealed.

Held not to affect cities having charters.—See *Morton vs. Broderick*, 118 Cal. 474, 486, 50 Pac. Rep. 644.

MUNICIPAL CORPORATIONS—PARKS—BOULEVARDS.

To authorize cities and towns owning public parks outside of their limits, to lay out, construct, and maintain roads, streets, and boulevards from the boundaries of such cities or towns to, into, and through such parks, and to acquire lands for that purpose.

(Stats. 1897, 45, ch. XLIX.)

§ 1. It shall be lawful for the council, board of trustees, or other governing body of any city or town, to lay out, open, construct, and cause to be constructed, maintain and control all roads, streets, and boulevards, which may be necessary or requisite for the purpose of connecting such city or town with any public park situated wholly or partly outside of the limits of such city or town, of which it shall be the owner, and to acquire by gift, purchase, or condemnation, in the manner required by the law of eminent domain, any land or rights of way lying between the limits of such city or town and the exterior limits of such park, for the purposes aforesaid.

§ 2. This act shall take effect immediately.

See next following statutes, also the preceding statute.

MUNICIPAL CORPORATIONS—PARKS.

To enable incorporated "cities and counties" and "cities" and "towns," to acquire, maintain and improve public parks and boulevards.

(Stats. 1889, 361, ch. CCXLVIII.)

§ 1. Any incorporated "city and county" or "city" or "town" in this state may acquire and hold land for the uses and purposes of public parks, or public boulevard, or both, either by purchase, with the consent of the owner, or by condemnation, under the provisions of the Code of Civil Procedure of the state of California, title seven, of part three.

§ 2. The land to be so acquired and held may be within the corporate limits of the "city and county" or "city" or "town," or conveniently adjacent thereto; and in either case it shall be subject to the jurisdiction of the municipality acquiring it, and to the laws, ordinances, rules, and regulations thereof.

§ 3. The board of supervisors, city council, trustees, or other municipal legislative board, or body of any incorporated "city and county," or "city," or "town," may, by ordinance, or in such manner as other municipal legislative acts are enacted, under its charter or act of incorporation, determine what lands are necessary and proper to be acquired for the uses and purposes aforesaid.

§ 4. Any incorporated "city and county," or "city," or "town," may, in addition to the annual tax, levy for other municipal purposes, and at the same time and in the same manner cause to be assessed and levied upon the taxable property within the municipality an annual tax in such amount as may be deemed necessary and proper for the acquisition or maintenance or improvement of its public parks or boulevards, or both, and the revenue so obtained shall be applied to no other use or purpose.

§ 5. The board of supervisors, city council, trustees, or other municipal legislative body or board of any incorporated "city and county," or "city," or "town," may by ordinance or in such manner as other municipal legislative acts are enacted under its charter or act of incorporation, call an election and submit to the qualified electors of the municipality, the proposition to issue the bonds of the municipality, to a specified amount, the proceeds of the sale of which shall be applied exclusively to the acquisition, maintenance, and improvement of its public parks, or boulevards, or both. Such election shall be conducted, and the result determined substantially as are other local municipal elections of the municipality in which it is held.

§ 6. If at such an election two thirds of the qualified electors voting an assent to the issuance of the bonds, then the "city and county" or "city" or "town," having held such election may, by ordinance or in such manner as other municipal legislative acts are enacted under its charter or act of incorporation, provide for the issuance, and cause to be issued, its bonds to the amount specified and so voted for; provided, however, that said bonds shall mature and become due and payable at a time not exceeding twenty years, and shall bear interest at a rate not exceeding five per centum per annum, payable annually, and that before or at the time of the issuance of said bonds, provision shall be made for the collection of an annual tax sufficient to pay the interest thereon as it falls due, and

also to constitute a sinking fund to pay the principal thereof at maturity, and not exceeding twenty years from the date thereof.

§ 7. The bonds shall be numbered consecutively from one upwards, and shall be issued in the order of their respective numbers, commencing with number one, and there shall be attached thereto coupons for the payment of the annual interest. They shall be known and designated either as the "park and boulevard," or "park," or "boulevard" bonds of the municipality issuing them. Each bond shall not exceed in the amount of its principal one thousand dollars, and may be in any smaller amount.

§ 8. The bonds or any number thereof so issued shall be sold to the highest bidder, after advertised notice for sealed proposals thereof; but no bid shall be accepted at less than the par value thereof, nor shall any bonds be sold during any one year in excess of the actual expenditures incurred in that year.

§ 9. The money obtained from the sale of the bonds shall be kept in a separate fund, and shall be used exclusively for the acquisition, or maintenance, or improvement of the public parks or boulevards, or both, of the municipality issuing them, and for no other use or purpose.

§ 10. Whenever and as often as there shall be in the sinking fund an amount deemed sufficient for the purpose, the board of supervisors, city council, trustees, or other municipal legislative board or body of the municipality issuing the bonds, may, by ordinance or in such manner as other municipal legislative acts are enacted under its charter or act of incorporation, cause notice to be given by advertisement, that the amount (stating it) is in the sinking fund for the redemption of said bonds, and inviting sealed proposals for the redemption, surrender, and cancelation of bonds, with the interest thereon, to the specified amount in the sinking fund; and at the date designated in the notice the bids shall be opened, if any there be, and the bid or bids offering to surrender bonds for the lowest sum, not more than par value, shall be accepted. If sufficient bids shall not be received to consume the money in the sinking fund, and the whole or a portion deemed sufficient for the purpose shall still remain in the sinking fund, notice shall be given by advertisement for not less than thirty days, stating that there is an amount, to be specified in the notice, still remaining in the sinking fund to be applied to the redemption of the bonds with interest thereon having the highest numbers (specifying the numbers), and if said bonds be not presented for redemption, surrender, and cancelation within the time specified in the notice, they shall thereafter cease to draw interest, and the amount in the sinking fund shall be kept for their redemption when presented, but no more shall be paid therefor than the amount of principal and interest due at the expiration of the time specified in the aforesaid notice.

§ 11. Any incorporated "city and county," or "city" or "town," in this state, availing itself of the privileges, benefits, and powers of this act, may, by ordinance or in such manner as other municipal legislative acts are enacted under its charter or act of incorporation, prescribe such further conditions and provisions for the issuance and sale of the bonds herein provided for and for the redemption thereof as are not inconsistent with the constitution of this state, or the provisions of this act, or its charter or act of incorporation.

§ 12. All notices and advertisements provided for in this act shall be given

by publication in a newspaper, if there be one published within the municipality; if there be none, then by posting in at least three public places within the municipality; and when no other time is prescribed in this act, they shall be for such length of time as may by the board of supervisors, city council, trustees, or other municipal legislative board or body of the municipality be deemed and determined to be reasonable; but the bonds issued under the authority of this act, and sold to purchasers in good faith, shall not be held to be invalid for any defect in any of the notices herein provided for.

§ 13. This act shall take effect and be in force from and after the date of its passage.

Fritz vs. San Francisco, 132 Cal. 373-375, 64 Pac. Rep. 566; *McHugh vs. San Francisco*, 132 Cal. 381, 64 Pac. Rep. 570.

See next following statutes.

MUNICIPAL CORPORATIONS—PARKS.

To provide for the maintenance and support of the public parks heretofore created within the various cities and cities and counties of the state, and to amend the existing acts in relation thereto.

(Stats. 1889, 143, ch. CXXXV; amended 1893, 79, ch. LXIX; 1893, 343, ch. CCXXX.)

§ 1. All lands, parks, highways, and avenues in any city or city and county in this state, which have been heretofore set apart by law as and for public parks, and which have been placed under the management or control of a board or of boards of park commissioners, shall hereafter remain and continue to be public parks, and subject to the management and control of the board or boards of park commissioners of said respective cities or cities and counties in the manner specified in this act; and such board or boards of park commissioners, and the members thereof, shall be appointed and constituted in the manner and for the terms and shall have the qualifications set forth in this act.

§ 2. Every such board of park commissioners (except in cities which, at the last federal census, had a population of more than fifty thousand and less than one hundred thousand inhabitants, and which cities have adopted a charter according to the constitution and laws of this state, as hereinafter provided) shall consist of three persons, who shall be appointed by the governor of the state, and shall hold their offices for four years, respectively, and shall receive no compensation for their services. In case of a vacancy in the membership of the board, the same shall be filled by an appointee of the remaining members of the board, for the residue of the term then vacant; but all vacancies caused by the expiration of the term of office of any member of such board, or by the failure or neglect to qualify of any person appointed to such board by the governor, shall be filled by the governor by the appointment of a new member. Each member of every board of park commissioners shall be a freeholder and a resident of the city, or city and county, in which the board of which he is a member is to act. The governor of the state shall issue a commission to every such commissioner appointed by him, and each such commissioner shall, within twenty days after the receipt thereof, take and subscribe the oath of office prescribed by law. In every such board of park commissioners two members of the

board shall constitute a quorum for the transaction of business; and the concurrent action of two members of such board shall be sufficient to enable the said board to make any contracts pertaining to the park or parks under the control of such board, or to draw and expend any moneys which shall have been lawfully appropriated or set apart for the support of such park or parks, or which shall constitute any portion of the funds legally applicable to the support of the same; provided, however, that in all cities which, at the last federal census, had a population of more than fifty thousand and less than one hundred thousand inhabitants, and which cities have adopted a charter according to the constitution and laws of this state, that such board of park commissioners shall consist of the same number and shall be appointed in the manner provided by such charters. They shall also have such powers as are therein provided, and shall be governed in all matters by the provisions of such charters. All provisions herein, and also in the act to which this is amendatory, which are not in conflict with such charters, shall apply to such board of park commissioners when so appointed. [Amendment, Stats. 1893, 79.]

[The amendatory act of 1893, page 79, also contained the following section: "§ 3. This act shall take effect and be in force immediately after its passage, and after which time the boards of park commissioners in cities which, at the last federal census, had a population of more than fifty thousand and less than one hundred thousand inhabitants, and which have adopted charters under the constitution and laws of this state, and which boards have heretofore been appointed under the provisions of the act to which this is amendatory, shall serve only as such board of park commissioners until a board of park commissioners is appointed under the provisions of such charters."]

§ 3. Every such board of park commissioners shall have the full and exclusive power to govern, manage, and direct the parks, avenues, and grounds which have been or shall be placed under its care and charge; to employ and appoint such superintendents, laborers, clerks, or secretaries, attorney, surveyors, engineers; to engage and employ musicians for service in the park, and other officers and assistants, as to said board shall seem necessary and expedient for the proper management of the said parks and of its affairs; to prescribe and fix the duties, authority, and compensation of such appointees and employees, and to have the management and disbursement of all funds legally appropriated or provided for the support of said parks and grounds; provided, that no moneys shall for any of said purposes be paid out of the treasury of any city, or city and county, except upon warrants duly signed by a majority of the board of park commissioners thereof, and duly audited by the auditor of such city, or city and county. [Amendment, Stats. 1893, 343.]

§ 4. It shall be a felony for any park commissioner to be interested, directly or indirectly, in any contract or work of any kind connected with the park or grounds under the control of the board of which he shall be a member; and it shall be the duty of any commissioner or other person who shall know or be informed of the violation of the section, forthwith to report the same to the governor, who shall hear the allegations and proofs in regard thereto; and if, after such hearing, he shall be satisfied of the truth of said charge, he shall immediately remove the commissioner who has been guilty of the offense.

§ 5. Every such board of park commissioners shall annually, and on the first Monday of July of each year, make to the legislature of the state, and to the board of supervisors or other municipal council of the city, or city and county, in which such board shall be acting, a full report of the proceedings, and a detailed statement of its receipts and expenditures. [Amendment, Stats. 1893, 343.]

§ 6. It shall be lawful for every such board of park commissioners to let or lease any portion of the parks or grounds under their control, not exceeding one acre in extent, to any one party, and the lease therefor shall be unassignable, nor shall any portion of such park be leased to any street or other railroad company for terms not exceeding three years, until the grounds so leased shall be required for the improvements of such parks, or for public use as a park thereof. All moneys realized from such leases shall be paid into the treasury of the city, or city and county, in which such parks shall be situated, and shall be added to the funds otherwise appropriated or provided for the support of such parks. [Amendment, Stats. 1893, 343.]

§ 7. It shall be lawful for every such board of park commissioners to pass and adopt such ordinances as they may deem necessary for the regulation, use, and government of the parks and grounds under their supervision, not inconsistent with the laws of the state of California. Such ordinances shall, within five days after their passage, be published for ten days, Sunday excepted, in a daily newspaper published in the city or city and county in which such board shall be acting, to be selected by the said board. All persons violating or offending against any such ordinances shall be deemed guilty of a misdemeanor, and shall be punished therefor on conviction in any court of competent jurisdiction.

§ 8. Prisoners over the age of twenty-one years, and sentenced to hard labor in any of the jails, prisons, houses of correction, workhouses, or other penal establishment of any such city or city and county, may, upon the request and requisition of the board of park commissioners of such city or city and county, be put to work upon the parks and grounds which are under the control of such board.

§ 9. Every such board of park commissioners is authorized and empowered to accept and receive donations and aid from individuals and corporations, and legacies and bequests by the last wills of deceased persons, for the aid or improvement of the parks and grounds under the control of such board; and all moneys that shall be derived by any such board from such donations, legacies, and bequests shall, unless otherwise provided by the terms of such gift, legacy, or bequest, be deposited in the treasury of the city or city and county in which said parks and grounds shall be situated, and shall be withdrawn therefrom and paid out in the same manner as is provided for the payment of moneys legally appropriated for the support and improvements of such parks and grounds; provided, however, that if the moneys derived from such gifts, bequests, or legacies shall at any time exceed in amount the sum necessary for immediate expenditure on said parks and grounds, or if, in the judgment of the said board of park commissioners, it should be advisable to invest the same, or a part thereof, in some interest-bearing or productive investment, the said board of park commissioners are hereby authorized to invest the said moneys or any

part thereof in interest-bearing bonds of the government of the United States, or of the state of California, and thereafter to sell and dispose of said bonds, or to change the form of said investment, as to said board shall seem best.

§ 10. The board of supervisors, municipal council, or other legislative body of any city, or city and county in the state, having within its limits parks or grounds under the control and management of a board of park commissioners, and of an area or acreage of more than ten acres, is hereby authorized and empowered to levy and collect each year, in the mode prescribed by law for the levy and collection of taxes, a tax of not less than six nor more than ten cents upon each one hundred dollars assessed valuation of taxable property within such city, or city and county, for the purpose of preserving, maintaining, and improving the parks and grounds under the control of such board of park commissioners. All moneys collected and arising from the said tax shall be paid by the tax collector, or other officer collecting the same, into the treasury of said city, or city or county, and shall be deemed to be thereupon appropriated and set apart for the maintenance, preservation, and improvement of said parks and grounds, and shall be paid out by the treasurer upon warrants signed by a majority of the said board of park commissioners, and audited by the auditor of such city, or city and county. [Amendment, Stats. 1893, 343.]

§ 11. No board of park commissioners shall in any year incur any debt or liability nor expend any money beyond the amount of moneys legally applicable during such year to the support, preservation, and improvement of the parks and grounds under the control of such board.

§ 12. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 13. This act shall take effect and be in force from and after its passage.

See last preceding statutes, also next following statute.

MUNICIPAL CORPORATIONS—PARKS.

To extend the jurisdiction and authority of cities and towns over parks owned by them situated beyond the limits of such cities and towns, and over streets and avenues leading to the same.

(Stats. 1897, 47, ch. LI.)

§ 1. The municipal authority of the several cities and towns in this state, which now own or shall hereafter own any parks situated outside of the limits of such city or town, shall have the same power, authority, and jurisdiction over such parks, and over streets and avenues leading therefrom to said parks, and over persons and property therein, as they now or hereafter may have over said cities and towns and over persons and property therein; and the local courts of said cities and towns shall have the same jurisdiction, both civil and criminal, over said parks, streets, and avenues, and over persons and property therein, as they may have over the parks, streets, and avenues within such cities or towns respectively.

§ 2. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—PARKS—TAX.

To authorize the common councils and boards of supervisors of the several cities, counties, and cities and counties in this state to levy taxes for the maintenance of public parks having an area of over ten acres each within their respective limits.

(Stats. 1887, 52, ch. XLI.)

§ 1. The common council and the board of supervisors of any city, county, or city and county of this state, are hereby authorized and empowered to levy a yearly tax of not to exceed three cents upon every one hundred dollars' assessed valuation of property, real and personal, in such city, county, or city and county, for the purpose of maintaining and improving any public park or parks, having an area of ten acres each, therein situated.

§ 2. All moneys arising from the tax authorized to be levied by the preceding section, shall be collected by the tax collector of the city, county, or city and county wherein said park or parks may be situated, and shall be kept by the treasurer of said city, county, or city and county, subject only to the order of the public officer or officers, or board or commissioners, having legal charge and control of the management and maintenance of said park or parks.

§ 3. The terms common council and board of supervisors are hereby declared to include any body or board which, under the law, is the legislative department of the government of any city, county, or city and county.

§ 4. This act shall be enforced from and after its passage.

See statutes next preceding and following.

MUNICIPAL CORPORATIONS—PARKS.

Authorizing the commissioners of any public park in this state, and especially the park commissioners of Golden Gate Park, in San Francisco, to accept donations and bequests in aid of the improvement and embellishment of their respective parks, and to invest the funds derived therefrom.

(Stats. 1885, 38, ch. XXXIV.)

§ 1. The commissioners of any public park in this state, and especially the park commissioners of Golden Gate Park, in the city and county of San Francisco, are hereby authorized and empowered to accept and receive donations and aid from individuals and corporations, and to receive legacies and bequests by the last wills and testaments of deceased persons, and especially to receive aid and contributions from that certain corporation organized and incorporated under the laws of the state of California, known as the Park Aid Improvement Company, and the moneys derived and to be derived therefrom shall be and are hereby recognized as a portion of the public funds belonging to said park commissioners, and applicable under the direction of the said park commissioners to the purposes of preserving and embellishing the parks under their respective management and control.

§ 2. If the funds derived as aforesaid shall, at any time, exceed in amount the sum necessary for immediate expenditure on the said park grounds, or if, in the judgment of the said park commissioners, it should be advisable to invest

the same and make the same productive, the said park commissioners are hereby authorized to invest the same, or any portion thereof, in interest-bearing bonds of the government of the United States, or of the state of California, and to use the interest and income thereof for the purposes aforesaid, with the like power to sell and dispose of the said bonds if, in their discretion, the principal thereof shall be necessary for the purposes aforesaid.

§ 3. This act shall take effect and be in force immediately.

MUNICIPAL CORPORATIONS—PROTECTION FROM OVERFLOW.

To promote the protection of cities, towns, and municipal corporations from overflow by water and the drainage of the same, and for such purposes authorizing the incurring of indebtedness and the issuance of bonds therefor by the same, and providing for the disposition of the proceeds of such bonds, and for the supervision of the protective and other works.

(Stats. 1895, 95, ch. CVI.)

§ 1. Any city, town, or municipal corporation incorporated under the laws of this state may, by procedure hereinafter prescribed, incur indebtedness and liability, although in excess of the income and revenue by it provided for the current fiscal year, but not so that the aggregate funded indebtedness thereof shall exceed six per centum of the assessed value of all the real and personal property in the municipality, for the purpose of protecting such city, town, or municipal corporation from overflow by water, and for the purpose of draining such city, town, or municipal corporation, and for the purpose of securing an outlet for such overflow water and drainage, or for any part of said purposes, whether by means of canals, ditches, levees, dikes, embankments, dams, and machinery and other like appropriate or ancillary means or works, or any of the same, whether situated within or without the territorial limits of such city, town, or municipal corporation.

§ 2. The procedure mentioned in section one aforesaid shall be as follows, to wit: The city council or legislative body of such city, town, or municipal corporation shall, first, have made by some competent person general plans and estimates of the cost of such canals, ditches, levees, dikes, embankments, dams, machinery, and other means or works as may be contemplated, which general plans and estimates shall, after adoption, be filed in the office of the clerk of such municipality, and which general plans shall be substantially adhered to thereafter in proceedings under this act. Said city council or legislative body shall, secondly, after the filing of such general plans and estimates, and by resolution or ordinance passed at a regular meeting by a vote of two thirds of all its members and approved by the executive of the municipality, determine, if so advised, that the public good demands the construction, acquisition, and completion, or either, of canals, ditches, levees, dikes, embankments, dams, machinery, and other like appropriate or ancillary means, or works, or any of the same, for any or all of the purposes mentioned in section one aforesaid; and shall further, by the same resolution or ordinance, determine, if so advised, that the cost of the same will be too great to be paid out of the ordinary income or revenue of the municipality; and such resolution or ordinance, shall, after its passage and approval, be published as hereinafter prescribed. Said city council

or legislative body shall, within one month after the publication aforesaid, and by resolution or ordinance passed at a regular meeting by a vote of two thirds of all its members, and approved by the executive of the municipality, call a special election, and submit to the qualified voters of such city, town, or municipal corporation the proposition to incur a debt for any or all of the purposes mentioned in section one aforesaid, and which have been as aforesaid determined to be demanded for the public good. The resolution or ordinance calling such special election shall specify the purpose for which the indebtedness is proposed to be incurred, the estimated cost of the things proposed, that bonds of the municipality will issue in the amount of such estimated cost, the number and character of such bonds, the rate of interest to be paid, and the amount of the tax levy for each year during the outstanding of such bonds to be made for their payment. Such last-named resolution or ordinance shall be published as hereinafter prescribed. Such city council or legislative body shall cause to be published, after the publication last named and prior to the day of holding such special election, a notice of the same, which notice shall set forth substantially all the matters contained in the aforesaid resolution or ordinance calling such special election.

§ 3. Every publication hereinbefore mentioned or required shall be in some newspaper published in such city, town, or municipal corporation; if in a daily paper in at least ten issues thereof, and if in a weekly paper in at least two issues thereof; and no publication shall be deemed to have begun until any one required preceding the same shall have been completed.

§ 4. Such special election shall be held in the manner provided by law for holding elections in such city, town, or municipal corporation.

§ 5. It shall require the votes of two thirds of all the voters voting at such special election to authorize the incurring of any indebtedness or the issuance of any bonds under this act. If two thirds of all the votes cast at such special election be in favor of the proposition submitted, the city council or legislative body may, by ordinance reciting the result of said election, provide for the issuance of the proposed bonds and any matter incidental thereto.

§ 6. All municipal bonds issued under this act shall be of the kind known as serials, and of such denominations as the city council or legislative body may determine; provided, that no bond shall be for less than one hundred dollars nor for more than one thousand dollars, and that not less than one fortieth part of the whole indebtedness evidenced by the whole of the issue of such bonds shall be, by the terms of such bonds, made payable each and every year. Each bond shall be made payable either in gold coin or other lawful money of the United States as may be expressed in such bond, on a day and at a place designated therein, with interest at the rate specified therein, which rate shall not exceed seven per centum per annum, to be fixed by such city council or legislative body. Said place of payment shall be either at the office of the treasurer of the municipality, or at some designated bank in San Francisco, Chicago, or New York. Said bonds shall be executed on the part of such municipality by the mayor or other executive thereof, and by the treasurer thereof, and countersigned by the clerk of the municipality. The interest coupons shall be numbered consecutively and signed by the treasurer.

§ 7. Any of such bonds may be issued by the city council or legislative body of such city, town, or municipal corporation, and by the same sold, at not less than their face value; and the proceeds of such sale shall be deposited in the municipal treasury to the credit of a designated fund and be applied exclusively to the purposes and objects for which, as aforesaid, the electors have voted to incur indebtedness or liability, until such purposes and objects shall have been accomplished, after which, the surplus, if any, may be transferred to the general fund of the municipality.

§ 8. Such city council or legislative body shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds and also one fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

§ 9. The city council or legislative body of every city, town, or municipal corporation wherein or for which any public works or improvements are being had or constructed for the purposes hereinbefore specified, and for which indebtedness has been incurred under the provisions of this act, shall have power to make all needful rules and regulations for acquisition, construction, and completion of such works and improvements; to appoint all needful agents, superintendents, and engineers to supervise and construct the same, and shall have power in all lawful ways to protect and preserve the rights and interests of the municipality in respect thereof.

§ 10. All contracts as to said works and improvements shall be let, in such parcels as the city council or legislative body may determine, to the lowest responsible bidder, after notice given for at least ten days by publication in one or more newspapers published in the municipality, inviting sealed proposals. Security or bonds may be required in order to guarantee good faith in bidding and in the performance of contracts, or either, in such amount as such council or legislative body may determine, and such council or legislative body may reject any or all bids.

§ 11. The city council or legislative body of the municipality may, by resolution, if it deem the same necessary, require the treasurer of the municipality to give additional bonds for the safe custody and care of public funds derived under this act.

§ 12. The provisions of this act are intended to be paramount and controlling as to all matters provided for therein and as to all questions arising in or out of procedure thereunder.

§ 13. This act shall take effect from and after the time of its passage.

MUNICIPAL CORPORATIONS—REORGANIZATION.

To enable cities incorporated and operating under a charter framed under section eight, article eleven, of the constitution, to abandon and annul such charter, and organize under general laws.

(Stats. 1897, 200, ch. CXXXVIII.)

§ 1. The common council, or other legislative body of any city in this state, operating under a charter framed under section eight, article eleven, of the constitution, shall have power, and it shall be their duty, whenever a petition is presented to them, signed by one half of the qualified electors of such city, by ordinance, to submit to the qualified electors of such city at any general election, the question whether such city shall abandon such charter and reorganize under the general laws of the state providing for the organization, incorporation, and government of municipal corporations. Such election shall be called and held in accordance with the provisions of such charter for calling and holding elections, and if two thirds of such qualified electors voting at such election shall vote to abandon such charter and reorganize under the general laws of the state providing for the organization, incorporation, and government of municipal corporations, such city shall, from and after the thirtieth day after such election, cease to be organized under such charter, and such charter shall be superseded by said general laws, and organized thereunder. In case such proposition shall fail to receive the vote of two thirds of such electors, then the proposition for the abandonment of such charter and reorganization under the general laws shall not be again submitted for two years.

§ 2. All officers of such city shall continue in office, and their powers under said charter shall not cease until officers shall have been elected and qualified under said general laws.

§ 3. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—SEWER DISTRICTS.

Providing for the establishment and maintenance of sewer districts adjacent to municipal corporations.

(Stats. 1899, 81, ch. LXVI.)

§ 1. It shall be the mandatory duty of the board of supervisors of any county of the state of California, whenever a petition of one third of the resident electors of any district describing the exterior boundaries of the said district shall be presented to them, praying for the formation of a sewerage district thereof, to publish for ten days in some daily paper in the nearest municipal corporation, or if there is no daily paper, then to publish weekly for two successive weeks in a weekly paper published in the nearest municipality, a notice of such petition and a description of the exterior boundaries of the district so proposed. If within twenty days after the last such publication a protest containing the signatures of the owners of a majority of the assessed valuation of the property within such district shall be filed with said board of supervisors, then said petition shall be denied, and no part of such district shall be included within any sewer district formed within six months thereafter. If no such protest be filed as herein provided, then at the expiration of the twenty days allowed for such protest it shall be the duty of the said board of supervisors to declare such district a sewer district.

§ 2. At the time of making each tax levy subsequent to the formation of said district, said board of supervisors must levy such an amount of taxes upon the taxable property of said district as shall by said board be deemed neces-

sary for carrying out the provisions of this act and of the formation of said sewerage district, and said taxes shall be collected in the same manner as state and county taxes are collected; and said board of supervisors must provide in said levy for assessing and collecting a sufficient amount of money thereby to pay to any municipality whose sewers shall be connected with, as hereinafter provided, the amount fixed by the legislative body of said municipality, as charges for said privilege of connecting with sewerage system, and said amount must be fixed by said legislative body before the first day of March of each year, and notice thereof must be given said board of supervisors.

§ 3. Said board of supervisors shall have power, after the formation of said sewerage district, to lay out and construct sewers therein, and to provide for making connections with said sewer by property holders and other persons resident within said district, and for the maintenance and extension of said sewerage district as may be in their judgment required, and must compel property holders to connect all buildings therewith.

§ 4. Whenever a sewerage district shall be formed, as provided in this act, of territory adjacent to any municipality having a sewerage system, the sewerage system of said sewerage district must be connected with and have its outlet through the sewerage system of said municipality; provided, that no connection can be made or maintained with the sewerage system of any municipality without the consent first obtained from and expressed by the legislative body of said municipality; and when connection is made with the sewers of the municipality said board of supervisors, from the funds collected from the taxes above provided for, shall pay to said municipality annually the sum of money that shall be fixed as charges by the said board of supervisors and said legislative body of said municipality for the privilege of so connecting and maintaining connection with the sewer system thereof, and this amount may vary from year to year as the said board of supervisors and said legislative body of said municipality shall deem reasonable.

§ 5. This act shall take effect and be in force from and after its passage and approval.

MUNICIPAL CORPORATIONS—SIXTH CLASS.

To enable municipal corporations of the sixth class to elect officers.

(Stats. 1885, 136, ch. CXLVII.)

§ 1. Whenever a corporation of the sixth class shall have failed, from any cause, to elect officers in accordance with its charter, and there are no officers to carry on the city government, or call an election for officers, in any such case citizens of such corporation may present a petition to the governor for the appointment of three commissioners of election. Such petition shall set forth: 1. The name of the corporation, and when, and how organized; 2. When the last election for officers took place, and whether any of such officers are performing their duties, and if not, how long since they ceased to perform their duties; 3. The provision of the charter as to the qualifications of voters; 4. That the persons signing the petition possess the qualifications provided by the charter for voters, and that each of said signers is a householder and freeholder in said corporation. The petition shall be signed by not less than

seventy-five persons possessing all the qualifications mentioned in the body of the petition, and shall be verified by at least two of the signers, that, of their own knowledge, the petition is true, and that all the signers possess all the qualifications set forth in the petition. Upon the presentation of the petition to the governor, he may either act upon the petition or require additional evidence of the matters set forth in the petition. Upon being satisfied of the truth of the matters set forth in the petition, the governor is authorized and empowered to appoint three persons as commissioners of election for such corporation. Such commission shall be known and styled "Board of Election Commissioners for" (here give name of corporation).

§ 2. The governor shall cause a commission to be issued to the commissioners, and the issuance of such commission shall be conclusive evidence of the regularity of all the proceedings to and including the appointment of such commissioner. Within ten days after their appointment, the commissioners shall take the oath of office before some judge or clerk, which oath shall be indorsed upon the commission, and a copy filed in the office of the secretary of state, and shall organize by the election of a president and secretary from their own members. The board shall cause to be kept minutes of all their proceedings, which minutes shall be signed at the close of each meeting by the president and secretary.

§ 3. The board of election commissioners shall have power: First, by an order entered in their minutes, to call an election for such officers as are declared in the charter of such corporation to be elected only by the voters in said corporation. Such orders shall specify the names of the offices to be filled, and, when any office is to be filled by an election in any ward or subdivision of said corporation, the order shall so state, and the date fixed for the election. Previous to the election, the board shall appoint officers of election, and fix the places of holding the election, as required in the charter of such corporation. The board shall cause notice of such election to be published in one or more newspapers published in said corporation; or if none be published therein, then by posting notices, for at least twenty days before such election. Such election shall be conducted as required by the charter of said corporation for the election of officers, except that it shall not be necessary to use printed registers, but should any voter be challenged on the ground that his name does not appear on the great register of the county, it shall be sufficient for him to state, under oath, that he believes his name is upon the great register, and if no other evidence is offered, the board of election shall accept his statement as true.

§ 4. The boards of election shall make return of the election as required in the charter, except that the returns shall be returned and delivered to the board of election commissioners, of all officers voted for at such election, without reference to whether any of such officers were voted for in the whole, or only a ward or subdivision of the corporation, and no officer of election shall issue a certificate of election.

§ 5. Within five days after the election the board of election commissioners shall proceed to canvass said returns and declare what persons were elected. Said board shall thereupon issue certificates of election to the persons so

declared to be elected; such certificate shall be signed by all the commissioners, and shall be conclusive evidence of the regularity of all the proceedings taken in said election and by said board, except as against any suit or proceeding that may be commenced to oust from office any of said persons holding a certificate.

§ 6. Within ten days after issuance of the certificates, the officers shall be qualified and enter upon the discharge of their duties, in accordance with the charter. If any person chosen at said election shall fail to take the oath of office and enter upon the discharge of the duties within the time above specified, then the office to which he shall have been elected shall be deemed and held to be vacant, the same as if he had never been elected. At the first meeting of the legislative department of the corporation after the election, the board of election commissioners shall deliver to said legislative department all books and papers in their possession, relating to their office of election commissioners, and said legislative department shall cause the same to be filed by their clerk, and shall cause the commission issued by the governor to said commissioners, and the minutes of said commissioners, and notice of the election, to be entered in the book of minutes of said legislative department, and such entries, when so made, shall be evidence of all the matters therein stated, and as conclusive evidence as the original.

§ 7. Whenever the officers elected at such election, and the officers authorized by the charter to be elected or appointed by the legislative or executive department of said corporation, shall have qualified and entered upon the discharge of their duties, then said corporation shall be deemed and held to be fully organized and in operation, as if said election had been held at the time and in all respects in the manner required by the charter.

§ 8. Whenever the government of the corporation is in full operation, as set forth in section seven, the legislative department shall cause a resolution to be entered in their minutes declaring the same; and such resolution shall be conclusive evidence of the same, except as against a direct action or proceeding to set aside or annul said government.

§ 9. This act shall take effect from and after its passage.

See next following statute.

As to disincorporation of municipalities of sixth class, see Stats. 1895, 115, as amended, post p. 989.

MUNICIPAL CORPORATIONS—SIXTH CLASS.

To validate the organization and incorporation of municipal corporations of the sixth class.

(Stats. 1903, 29, ch. XXV.)

§ 1. All municipal corporations of the sixth class, the organization and incorporation of which have been authenticated by an order of a board of supervisors in this state, declaring the same incorporated as municipal corporations of the sixth class, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the

provisions of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations of the sixth class from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore exercised according to the act aforesaid, are hereby validated and declared as legal.

§ 2. This act shall take effect from and after its passage and approval.

MUNICIPAL CORPORATIONS—TAXATION.

To provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state, excepting municipal corporations of the first, second, third, and fourth classes, and cities operating under a charter framed under section eight, article eleven, of the constitution.

(Stats. 1891, 22, ch. XXXVI.)

§ 1. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, excepting municipal corporations of the first, second, third, and fourth classes, and cities operating under a charter framed under section eight, article eleven, of the constitution, shall have power and it shall be their duty to fix, by ordinance, the amount of money necessary to be raised by taxation upon the-taxable property therein, as a revenue to carry on the various departments of such corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The board of trustees, common council, or other legislative body shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each year; provided, however, that the provisions of this act shall not apply to or be in force in any city or municipal corporation until its board of trustees, common council, or other legislative body shall have passed an ordinance electing to avail itself of the provisions of this act, and filed a certified copy of the same with the auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in March of each year.

§ 2. The county auditor must, on or before the third Monday in August of each year, transmit to the board of trustees, common council, or other legislative body of each municipal corporation or city within such county a statement, in writing, showing the total value of all property within each municipal corporation or city, respectively, which value shall be ascertained from the assessment book of such county for such year, as equalized and corrected by the board of supervisors for such county.

§ 3. Each board of trustees, common council, or other legislative body of such municipal corporation or city shall, on the first Monday of October, fix the rate of taxes, designating the number of cents upon each hundred dollars, using as a basis the value of property as assessed by the county assessor and so returned to such board by the county auditor, as required in section two of this act, which rate of taxation shall be sufficient to raise the amount so

fixed by such board, as required in section one of this act, which acts by said board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city board must immediately thereafter transmit to the county auditor of the county in which such municipal corporation or city is situated a statement of such rate so fixed by such municipal board.

§ 4. The auditor must then compute and enter in a separate column in the assessment book, to be headed "City Tax, City of ——" (naming it), the respective sums, in dollars and cents, to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate of levy so fixed by such municipal board and the assessed value as found in such assessment book; such taxes so levied shall be collected at the same time and in the same manner as state and county taxes; and when collected the net amount as ascertained by section five shall be paid to the treasurer of the municipal corporation or city to which it respectively belongs, under the general requirements and penalties provided by law for the settlement of other taxes.

§ 5. The board of supervisors, on the filing of itemized statements by the county auditor and county tax collector showing the additional expense to their offices of assessing and collecting these local taxes, may, by an order spread upon its minutes, deduct such expenses from the taxes of each municipal corporation or city, while in the hands of the county tax collector, and cover the same into the county salary fund.

§ 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Marquis vs. City Santa Ana, 103 Cal. 661, 664, 37 Pac. Rep. 650.
See next following statute.

MUNICIPAL CORPORATIONS—TAXATION.

To provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be allowed for such county officers for the services so rendered to such municipal corporations.

(Stats. 1895, 219, ch. CLXXXII; amendment Stats. 1905, 429, ch. CCCLVIII.)

§ 1. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power, and it shall be their duty to fix by ordinance the amount of money necessary to be raised by taxation upon the taxable property therein, as a revenue to carry on the various departments of such municipal corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The board of trustees, common council, or other legislative body, shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each year; provided, however, that the pro-

visions of this act shall not apply to or be in force in any city or municipal corporation until its board of trustees, common council, or other legislative body, shall have passed an ordinance electing to avail itself of the provisions of this act, and filed a certified copy of the same with the auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in February of each year; and thereafter all assessments shall be made and taxes collected by the assessor and tax collector of such county until such city or municipal corporation shall, by ordinance, elect not to avail itself of the provisions of this act for any longer time.

§ 2. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power to elect that the duties of the city treasurer of such city or municipal corporation shall be performed by the county treasurer of the county in which such city or municipal corporation is situated; and whenever such board of trustees, common council, or other legislative body shall, by ordinance, so determine, such duties shall be performed by the treasurer of the county in which such city or municipal corporation is situated. A certified copy of such ordinance shall be served on the tax collector and treasurer of such county, and such ordinance shall also prescribe the manner in which money shall be drawn out of the various funds belonging to such city or municipal corporation in the hands of the treasurer.

§ 3. The county auditor must, on or before the second Monday in August of each year, transmit to the board of trustees, common council, or other legislative body of such municipal corporation or city within such county, a statement, in writing, showing the total value of all property within each municipal corporation or city, respectively, which value shall be ascertained from the assessment books of such county for such year, as equalized and corrected by the board of supervisors of such county.

§ 4. Each board of trustees, common council, or other legislative body of such municipal corporation or city shall, on the first Monday in September, fix the rate of taxes, designated in the number of cents upon each hundred dollars, using as a basis the value of the property as assessed by the county assessor, and so returned to such board by the county auditor, as required by section two of this act, which rate of taxation shall be sufficient to raise the amount so fixed by such board, as required in section one of this act, which acts by said board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city board must immediately thereafter transmit to the county auditor of the county in which such municipal corporation or city is situated a statement of such rate so fixed by such municipal board.

§ 5. The auditor must then compute and enter in a separate column in the assessment book, to be headed "City Tax, City of ——" (naming it), the respective sums in dollars and cents to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate of levy so fixed by such municipal board, and the assessed value as found in such assessment book. Such taxes so levied shall be collected at the same time and in the same manner as state and county

taxes; and when collected the net amount as ascertained by sections six and seven of this act shall be paid to the treasurer of the municipal corporation or city to which it respectively belongs, under the general requirements and penalties provided by law for the settlement of other taxes; provided, however, that when such city has by ordinance, a certified copy of which has been served upon the tax collector of such county, elected to avail itself of the provisions of section two of this act, then such tax collector shall pay the money belonging to such city or municipal corporation over to the treasurer of the county in which such city or municipal corporation is situated.

§ 6. The county auditor and county tax collector shall file with the board of supervisors itemized statements showing the additional expense to their offices of assessing and collecting these local taxes, and upon the filing of such statements the board of supervisors shall, by an order spread upon the minutes, deduct such expenses from the taxes of such municipal corporation or city, while in the hands of the county tax collector, and transfer the same into the county salary fund; provided, that not more than one per centum shall be charged for collecting the first twenty-five thousand dollars so collected, and one fourth of one per centum for all sums over that amount. [Amendment, Stats. 1905, 429.]

§ 7. Whenever the board of trustees, common council, or other legislative body of any municipal corporation or city in this state has elected to avail itself of the provisions of section two of this act, the board of supervisors of such county shall also reserve as and for the expenses of the county treasurer, incurred by reason of the imposing of these duties upon him, the sum of one fourth of one per centum, which sum shall be deducted from the money collected by the county tax collector, and covered in to the county treasurer into the county salary fund.

§ 8. Whenever the board of trustees, common council, or other legislative body of any municipal corporation or city in this state shall have availed itself of the provisions of this act, all duties, other than the assessing of the property of such city or municipal corporation, belonging to the office of the city assessor shall be transferred to and performed by the clerk of such city or municipal corporation; and all duties, other than the collection of taxes, belonging to the office of city tax collector shall be transferred to and be performed by the city marshal or chief of police of such city or municipal corporation, and thereafter the office of city assessor, and city tax collector, and city treasurer may be by ordinance abolished.

§ 9. Whenever any real property situate in any city or municipal corporation which has availed itself of the provisions of this act has been sold for taxes and has been redeemed, the money paid for such redemption shall be apportioned by the county treasurer to such city or municipal corporation in the proportion which the tax due to such city or municipal corporation bears to the total tax for which such real property was sold.

§ 10. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—TREES.

To provide for the planting, maintenance, and care of shade trees upon streets, lanes, alleys, courts, and places within municipalities, and of hedges upon the lines thereof; also, for the eradication of certain weeds within city limits.

(Stats. 1893, 153, ch. CXL.)

§ 1. All streets, lanes, alleys, places, or courts, in the municipalities of this state, now open or dedicated, or which may hereafter be opened or dedicated to public use, whose grade has been officially established, and which have been actually graded in conformity therewith, may be planted with shade trees along the edges of the sidewalks thereof, by order of the city council, which shall have power also to provide for the maintenance and care of the same; and the city council shall have power to prescribe the height, thickness, and manner of trimming of all hedges set out, or that shall be hereafter set out, along the line of any street, lane, alley, place, or court dedicated to public use, whether graded or not, and to compel compliance with its ordinances in the premises by the owners or occupants of the lots fronting thereon. The powers hereby conferred upon city councils shall be exercised in the manner and under the proceedings hereinafter described.

§ 2. The city council of any municipality in the state may, at its discretion, pass a resolution of intention to plant, or cause to be planted, with shade trees, any graded street, lane, alley, place, or court within the limits of such municipality. Such resolution of intention may embrace the entire length of any street, lane, alley, place, or court, or any portion thereof, but must specify the kind of trees to be planted, their size, age, and their distance apart. The street superintendent shall thereupon cause to be conspicuously posted along both sides of the street mentioned in the resolution, at not more than three hundred feet in distance apart, notices of the passage of said resolution. Said notice shall be headed "Notice to Plant Shade Trees," in letters not less than one inch in length, and shall, in legible characters, set forth the language of the resolution, and the date of its passage. The city clerk shall also cause a copy of the resolution to be published for six days in one or more daily newspapers published and circulated in said city, and designated by said city council.

§ 3. The owners of a majority of the frontage of the property on both sides of the street proposed to be planted as aforesaid, may, within ten days after the expiration of the time of publication of said resolution, file their written statement of objections to the proposed work, with the city clerk, which must be signed by the objectors, each one writing after his or her name the number of feet frontage owned by him or her. Such objection must show wherein the parties making them will be injured or aggrieved by the proposed work, and if the objection be to the kind of trees proposed to be planted, they must name some other kind of tree to be substituted therefor. The city council shall, at its next meeting after the filing of said objections, fix a time for hearing the same, not less than one week thereafter. The city clerk shall thereupon notify each objector, or his agent, who has signed his or her name to the statement, by depositing in the post-office of said city, a notice addressed to him or her, postage prepaid, notifying the objectors of the time and place of hearing. At

the time specified, the council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive, except that in the choice of trees to be planted, it shall be governed by the written request of the owners of a majority of the frontage on both sides of the street which it is proposed to plant. If the objections be sustained, no further proceedings shall be taken under the resolution of intention for six months after the date of its passage. If it be again proposed to plant the street, the council shall commence proceedings de novo, as if no action had been previously taken.

§ 4. At the expiration of ten days after the expiration of the time of publication of said resolution of intention, if no written objections to the work therein described shall have been filed with the city clerk, as hereinbefore provided, otherwise immediately upon the overruling of the objections by the council, the council shall be deemed to have acquired jurisdiction to order to be done the work which is authorized by this act, which order shall be published for two days in the same papers and manner as provided for the publication of the resolution of intention.

§ 5. Before passing any resolutions for the planting of any street, the city council shall cause notice, with specifications, to be posted conspicuously for five days near the door of the council chamber, and shall advertise the same for five days in the same manner and papers as heretofore provided for the publication of the resolution of intention, inviting sealed proposals for bids for furnishing the trees and doing the work ordered. All bids shall state the sum or price for which the bidder will undertake to furnish the trees, of the kind, age, and size required, and will suitably prepare the ground, set out the trees, warrant every one of them to grow, or replace all that fail to grow or receive damage from whatever cause with others of the same kind, and of suitable age and size to preserve uniformity, and will for three years care for, cultivate, protect, irrigate, and trim said trees. And no order for the planting of any street shade trees shall be made that does not likewise provide for the care and maintenance of the trees for three years by the contractor planting the trees. All proposals or bids shall be accompanied by a check payable to the order of the mayor, or president of the city council, certified by a responsible bank, for an amount which shall not be less than ten per centum of the aggregate of the proposal. Said proposals or bids shall be delivered to the clerk of the city council, indorsed "Proposals to Plant Trees," and said council shall, in open session, examine and publicly declare the same; provided, that no proposal or bid shall be considered unless accompanied by said check. The council may reject all proposals, should it deem this for the public good, and shall reject the bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and may award the contract to the lowest responsible bidder, at the prices named in his bid, which award shall be approved by the mayor, or president of the council. Notice of such awards of contract shall be posted and advertised for five days, in the manner hereinbefore provided, and it shall be the duty of the superintendent of streets to enter into a contract with the bidder to whom the work shall have been awarded by the council, and at the prices specified in his bid; whereupon the certified checks of all the other bidders shall be returned to them, respectively. But if such lowest bidder neglects, fails, or refuses, for fifteen days after the first

posting and publication of the award, to enter into the contract, then the city council, without further proceedings, shall again advertise for proposals or bids as in the first instance, and shall award the contract for said work to the then lowest bidder. If the contractor who shall have taken any contract shall not complete the planting within the time limited in the contract, or within such further time as the council may give him, the superintendent of streets shall report such delinquency to the council, which may relet the unfinished portion of the planting, and the future care of the trees, after pursuing the formalities hereinbefore prescribed for the letting of the whole in the first instance.

§ 6. All contractors shall, at the time of executing any contract for the planting and care of trees, execute a bond to the satisfaction of the mayor, or president of the city council, with two or more sureties, and payable to the city, in such sums as the mayor, or president of the council, shall deem adequate, conditioned for the faithful performance of the contract, and the sureties shall justify before the recorder, or a justice of the peace, in double the amount mentioned in such bond, over and above all statutory exemption. Before being entitled to any contract, the bidder to whom the award shall have been made must pay into the city treasury the cost of the publication of notices, resolutions, and orders, and all other incidental expenses required under the proceedings prescribed by this act.

§ 7. All work done under the provisions of this statute shall be executed under the direction of the superintendent of streets, whose duty it shall be, under the general control of the council, to see that all the obligations assumed by contractors towards the city are faithfully complied with, and that all trees furnished are sound, healthy, free from infection by insects, and of the kind, size, and age called for by the contract. He shall certify to the completion of all work, or portion of work, which, by the terms of the contract, shall entitle the contractor to payment in whole or in part, and the presentation of his certificate by the contractor shall be a condition precedent to each payment that shall become due under the contract.

§ 8. All sums due to contractors under the provisions of this act shall be payable by instalments, as follows, to wit: Not more than one half the entire consideration in the contract shall be payable on the completion of the planting, and out of this amount the superintendent of streets shall see that the trees are paid for, to the party furnishing the same; one half the balance at the end of eighteen months after the completion of the planting; provided, all conditions shall have been complied with; the remaining one half to be paid at the end of three years after the completion of the planting; provided, all conditions shall have been complied with.

§ 9. Immediately upon the execution of any contract for the planting and care of street trees under the provisions of this act, it shall be the duty of the city assessor to make an assessment to cover the sum to become due for the work specified in such contract (including all incidental expenses) upon the lots and land fronting on the street, lane, alley, court, or place to which such contract relates, each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per foot front sufficient to cover the total

expenses of the work. Said assessment shall briefly refer to the contract, the work contracted for, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per foot front assessed, the amount of each assessment, the name of the owner of each lot, if known to the assessor (if unknown, the word "Unknown" shall be written opposite the number or description of the lot, with the amount assessed thereon). And the assessor shall attach to said assessment a diagram, exhibiting the street, lane, alley, place, or court on which the work is contracted to be done, and showing the relative location and frontage of such lot, numbered to correspond with the numbers in the assessment. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor, or president of the council. The said assessments and warrants shall be separately issued for each payment that shall be due the contractor, as specified in section eight of this act, and shall be substantially in the following form:

FORM OF THE WARRANT.

By virtue hereof, I (name of the superintendent of streets), of the city of _____, county of _____, and state of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), his agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be his warrant for the same.

Date _____, _____. (Name of superintendent of streets.)

Countersigned by (name of mayor or president of council).

Recorded (date _____, _____. (Name of superintendent of streets.)

Said warrant, assessment, and diagram shall be recorded in the office of the superintendent of streets. When so recorded the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, for the period of two years from the date of said recording unless sooner discharged. From and after the date of said record all persons interested in any manner in any or all of the lots assessed, shall be deemed to have notice of the contents of said record.

§ 10. After said warrant, assessment, and diagram shall have been recorded, the same shall be delivered to the contractor, his agents or assigns, on demand, who shall thereby be authorized to demand and receive the amounts of the several assessments. In default whereof, and as regards enforced collections, interest, cost, and penalties, and the correction of errors, the same proceedings are to be had as are specified in sections nine, ten, eleven, twelve, sixteen, and seventeen of an act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteen, eighteen hundred and eighty-five, amended March fourteenth, eighteen hundred and eighty-nine.

§ 11. The city council of every municipality in this state has jurisdiction of the hedges and fences placed by property owners along street lines, and may, by ordinance, prohibit the planting of thorn-bearing hedges, and the use of barbed wire along street lines, and may regulate the height, width, and the mode of trimming hedges, and enforce ordinances enacted for such purposes

against absentees, or other negligent or recusant owners or occupants of lots or lands on which hedges are maintained. They may also condemn, as public nuisances, any or all weeds whose seeds are of a winged or downy nature, and are spread by the winds, and may compel the eradication of such weeds by the owners of the lots whereon they grow, or at their expense.

§ 12. The city council or trustees of every municipality shall provide for the replacement of missing trees, and for the trimming and care of all trees that have or shall have been planted for three or more years in the streets and highways, whether such planting shall have been done under this act or otherwise; the expense whereof must be defrayed out of the street fund, and the work be done by the superintendent of streets of such municipality.

§ 13. This act shall only apply to such municipalities as shall by vote of the electors residing therein determine to come within its provisions.

§ 14. This act shall take effect from and after its passage.

MUNICIPAL CORPORATIONS—VALIDATING.

Concerning municipal corporations.

(Stats. 1885, 31, ch. XXVII.)

§ 1. All municipal corporations whose incorporation has been or may hereafter be authenticated by an order of any board of supervisors in this state, declaring the same incorporated as a municipal corporation, and a certified copy of which order has been or may hereafter be filed by such board of supervisors in the office of the secretary of state, and which have heretofore been or may hereafter be organized under a certificate from the secretary of state, showing such order to have been filed in his office, and which thereafter have acted, or hereafter may act, in the form and manner of a municipal corporation, under the provisions of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of said municipal corporations heretofore exercised, or which may be hereafter exercised, according to the act aforesaid, are hereby validated and declared to be legal.

§ 2. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—VALIDATING.

To validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations."

(Stats. 1887, 150, ch. CXXXIII.)

§ 1. All cities and counties, cities, or towns reorganized or claiming to have been reorganized, since the passage of the act the title of which is recited in the title hereof, or which have attempted since said date to reorganize under the provisions of said act, and have acted as municipal corporations since such

reorganization, or attempted reorganization, are hereby declared to be, and to have been from the date of such reorganization, or attempted reorganization, duly and legally incorporated and reorganized cities, and all proceedings for the reorganization of such municipal corporations are hereby validated and declared legal.

MUNICIPAL CORPORATIONS—VALIDATING.

To validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three.

(Stats. 1889, 203, ch. CLXIX.)

§ 1. All cities and counties, cities, or towns reorganized, or claiming to have been reorganized, since the passage of the act the title of which is recited in the title hereof, or which have attempted since said date to reorganize or incorporate under the provisions of said act, and have acted as municipal corporations since such reorganization, are hereby declared to be, and to have been from the date of such reorganization, or attempted reorganization, duly and legally incorporated and reorganized cities, and all proceedings for the reorganization of such municipal corporations are hereby validated and declared legal.

MUNICIPAL CORPORATIONS—VALIDATING.

To validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and also since the passage of the act entitled "An act to provide for the classification of municipal corporations," approved March second, eighteen hundred and eighty-three.

(Stats. 1891, 92, ch. LXXXVIII.)

§ 1. All cities and counties, cities, or towns, reorganized, or claiming to have been reorganized, since the passage of the acts the titles of which are recited in the title hereof, or which have attempted since said dates to reorganize or incorporate under the provisions of said acts, or either of them, and have acted as municipal corporations since such reorganization, are hereby declared to be and to have been from the date of such reorganization, or attempted reorganization, duly and legally incorporated and reorganized cities, and all proceedings for the reorganization of such municipal corporations are hereby validated and declared legal.

§ 2. This act shall take effect from and after its passage.

MUNICIPAL CORPORATIONS—VALIDATING.

To validate the organization and incorporation of municipal corporations.

(Stats. 1897, 168, ch. CXII.)

§ 1. All municipal corporations the organization and incorporation of which have been authenticated by an order of a board of supervisors in this

state, declaring the same incorporated as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore exercised according to the act aforesaid, are hereby validated and declared as legal.

§ 2. This act shall take effect from and after its passage and approval.

MUNICIPAL CORPORATIONS—VALIDATING.

To validate the organization and incorporation of municipal corporations.

(Stats. 1905, 400, ch. CCCXLI.)

§ 1. All municipal corporations the organization and incorporation of which have been authenticated by an order of a board of supervisors in this state, declaring the same incorporated as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore performed according to the act aforesaid, are hereby validated, and declared as legal.

MUNICIPAL CORPORATIONS—WATER SUPPLY.

To enable the board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, to obtain data and information, from any corporation, company, or person supplying water to such city and county, city, or town, requiring such boards, town council, or other legislative body to perform the duties prescribed by section one of article fourteen of the constitution, and prescribing penalties for the non-performance of such duties.

(Stats. 1881, 54, ch. LII.)

§ 1. The board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, are hereby authorized and empowered, and it is made their official duty, to annually fix the rates that

shall be charged and collected by any person, company, association, or corporation for water furnished to any such city and county, or city, or town, or the inhabitants thereof. Such rates shall be fixed at a regular or special session of such board or other legislative body, held during the month of February of each year, and shall take effect on the first day of July thereafter, and shall continue in full force and effect for the term of one year and no longer.

§ 2. The board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, are hereby authorized, and it is hereby made their duty, at least thirty days prior to the fifteenth day of January of each year, to require, by ordinance or otherwise, any corporation, company, or person supplying water to such county, city or town, or to the inhabitants thereof, to furnish to such board, or other governing body, in the month of January in each year, a detailed statement, verified by the oath of the president and secretary of such corporation or company, or of such person, as the case may be, showing the name of each water-rate payer, his or her place of residence, and the amount paid for water by each of such water-rate payers, during the year preceeding the date of such statement, and also showing all revenue derived from all sources, and an itemized statement of expenditures made for supplying water during said time.

§ 3. Accompanying the first statement made as prescribed in section two of this act, every such corporation, company, or person shall furnish a detailed statement, verified in like manner as the statement mentioned in section two hereof, showing the amount of money actually expended annually, since commencing business, in the purchase, construction, and maintenance, respectively, of the property necessary to the carrying on of its business, and also the gross cash receipts annually, for the same period, from all sources.

§ 4. Every corporation, company, or person who shall refuse or neglect to furnish the statements mentioned in sections two and three of this act, or either of them, or who shall furnish any false statement in relation thereto, within thirty days after having been required or requested to furnish the same as prescribed in sections one, two, and three of this act, shall be deemed guilty of a misdemeanor.

§ 5. Upon receiving the statements provided for in sections two and three of this act, the board of supervisors, town council, board of aldermen, or other legislative body, shall cause a copy thereof to be made and filed in the office of the county recorder of such city and county, or of the county wherein such city or town is situated.

§ 6. Rates for the furnishing of water shall be equal and uniform. There shall be no discriminations made between persons, or between persons and corporations, or as to the use of water for private and domestic, and public or municipal purposes; provided, that nothing herein shall be so construed as to allow any person, company, association, or corporation, to charge any person, corporation, or association anything for water furnished them when, by any present law, such water is free.

§ 7. Any person, company, association, or corporation charging, or attempting to collect from the persons, corporations, or municipalities using water, any

sum in excess of the rate fixed, as hereinbefore designated, shall, upon the complaint of said board of supervisors, town council, board of aldermen, or other legislative body thereof, or of any water-rate payer, and upon conviction before any court of competent jurisdiction, shall forfeit the franchises and waterworks of such person, company, association, or corporation to the city and county, city or town, wherein the said water is furnished and used.

§ 8. Any board of supervisors, or other legislative body of any city and county, city, or town which shall fail or refuse to perform any of the duties prescribed by this act, at the time and in the manner hereinbefore specified, shall be deemed guilty of malfeasance in office, and upon conviction thereof, at the suit of any interested party, in any court of competent jurisdiction, shall be removed from office.

§ 9. This act shall take effect and be in force from and after the date of its passage.

§§ 2, 3—*Water Works vs. San Francisco*, 82 Cal. 286, 331, 22 Pac. Rep. 1046, 6 L. R. A. 756. § 6—*Spring Valley W. W. vs. San Francisco*, 61 Cal. 3, 40. § 8—*Fitch vs. Board Supervrs.*, 122 Cal. 285, 288, 54 Pac. Rep. 901. **Generally**—*Morton vs. Broderick*, 118 Cal. 474, 479, 50 Pac. Rep. 644; *San Diego W. Co. vs. San Diego*, 118 Cal. 556, 579, 62 Am. St. Rep. 261n, 50 Pac. Rep. 633, 38 L. R. A. 460.

Section eight of the foregoing act is held unconstitutional, in so far as the provision that penalty may be imposed "at the suit of an interested party" is concerned, by the supreme court in *Fitch vs. Board Supervisors*, 122 Cal. 285, 54 Pac. Rep. 901.

As to regulations outside of municipalities and rights of way for conducting water, see tit. **Water**, and Stats. 1885, 95, ch. CXV, post.

MUNICIPAL CORPORATIONS—WATER.

Authorizing incorporated cities to acquire, by gift, purchase, or condemnation proceedings, water, water rights, reservoir sites, rights of way, and other appliances for supplying such cities and their inhabitants with water.

(Stats. 1891, 102, ch. XCVI.)

§ 1. Any incorporated city in this state may acquire by gift, purchase, or condemnation proceedings, under the power of eminent domain, water, water rights, reservoir sites, rights of way for pipes, aqueducts, flumes, or other conduits, and all other property and appliances suitable and proper for supplying such city and its inhabitants with water.

§ 2. This act shall go into effect immediately upon its passage.

City Los Angeles vs. Pomeroy, 124 Cal. 597, 616, 57 Pac. Rep. 585.
See Stats. 1903, 405, post, joint water system.

MUNICIPAL CORPORATIONS—WATER.

To authorize cities to acquire and operate a joint system or systems of water supply.

(Stats. 1903, 405, ch. CCLXXIX.)

§ 1. Any two or more cities incorporated under the constitution and laws of this state are hereby empowered to jointly acquire and develop a source or sources of water supply for municipal and domestic purposes, and to construct the works necessary for their joint and several purposes and needs.

§ 2. Whenever the legislative body of a city deems it advisable to investigate the desirability of joint action with any other city, or cities, for acquiring and maintaining a water supply, such legislative body shall pass a resolution to that

effect, and thereupon the mayor of said city shall, with the consent and advice of said legislative body, appoint three commissioners to confer with like commissioners from any other city. Said commissioners from the respective cities shall meet and consider the question of the desirability of their respective cities taking joint action to acquire and develop water supply for their respective cities, and the plans, terms and conditions they deem feasible, just and equitable, and if they agree upon such plans, terms and conditions they shall report the same to the legislative bodies of their respective cities.

§ 3. If the legislative bodies of two or more cities approve the plans, terms and conditions of the joint action reported by the commissioners they shall, by resolution, declare such approval, and shall submit the same to the qualified voters of their respective cities for their approval or rejection at the next city election, or at a special election called for that purpose. If the terms, conditions and plans are approved by a majority of the voters voting thereon at such election the said cities may enter upon the work of developing or acquiring water supply for the said cities in accordance with such plans, terms and conditions. And any city may, in the manner required by law, issue bonds for the purpose of prosecuting and completing the work of acquiring a water supply jointly with other cities. All proceedings relating to the issue of such bonds shall be taken as now required by law for the issue of bonds to acquire a water supply.

§ 4. Joint ownership and costs shall be restricted to those portions of the sources and works which shall be common to all the municipalities served, and each municipality shall exclusively own, construct and operate those sources and works which are for its exclusive use.

§ 5. The apportionment of all costs of acquisition, construction, operation and maintenance of the joint properties shall be made upon the basis of the amount of water proposed to be apportioned to the several municipalities, unless a different apportionment of costs shall be agreed upon.

§ 6. The total costs of works which shall exclusively serve any municipality shall be borne by such municipality exclusively.

§ 7. The plans, terms, conditions, or other agreement for acquiring said water supply, may be modified from time to time by agreement between the respective cities, which agreement shall be declared by the action of their respective legislative bodies.

§ 8. The term "city" and the term "municipality," as used in this act shall include a consolidated city and county, and the same rights and privileges by this act given to an incorporated city shall pertain to a consolidated city and county.

§ 9. Before any resolution or ordinance relating to the joint acquisition of a water supply becomes binding upon any city or municipality it shall be approved by the mayor of such city, or passed over his veto, in the manner provided by law or the charter of such city for the passage of ordinances.

§ 10. This act shall be in force from and after its passage.

See Stats. 1891, 102, ante, and see next following statute.

MUNICIPAL CORPORATIONS—WATER.

To provide for the sale of an excess of water when owned by a municipality.

(Stats. 1897, 182, ch. CXXI.)

§ 1. Whenever the water supply owned by any city, incorporated town, county, or city and county, is in excess of the amount required to supply the water required by the inhabitants thereof, it may be declared by ordinance that such excess exists, and such excess of water may be sold outside of the limits of the corporation; but in no case shall a contract be made for a supply of any excess of water sold by a city, incorporated town, county, or city and county, outside the corporate limits for a period longer than one year; and in no case shall such a contract be made unless the legislative authority of a city, incorporated town, county, or city and county, declare by ordinance that there exists an excess of water not required to supply the inhabitants of the city, incorporated town, county, or city and county, within the term of the contract, but water not required to supply the inhabitants of a city, incorporated town, county, or city and county, may be sold by the authorities thereof outside the corporate limits from month to month during the existence of such excess, and shall be sold only at the rates fixed for consumers inside the corporate limits.

§ 2. This act shall take effect immediately.

MUNICIPAL CORPORATIONS—SIXTH CLASS—DISINCORPORATION.

To provide for the disincorporation of municipal corporations of the sixth class.

(Stats. 1895, 115, ch. CXXV; amended 1897, 17, ch. XXII; 1899, 13, ch. XVII.)

§ 1. A municipal corporation of the sixth class may disincorporate after proceedings had as required in this act. The council, the board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than half of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such municipal corporation shall disincorporate. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed or published in such corporation, or if there is no newspaper published in said corporation, then in some newspaper published in the county in which said corporation is situated, for a period of thirty days prior to such election. Said notice shall state that the question of disincorporating said corporation will be submitted to the legal voters of the same at the time appointed for such election, and the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the cross, as provided by law, after the words "For disincorporation," or "Against disincorporation." Such legislative body shall also designate in said notice the place or places at which the polls will be open in said municipal corporation; and shall also appoint and designate in such notice the names of the officers of election. The vote at said election shall be taken, canvassed, and returned in the same manner as in other municipal elections. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat.

If it be found by the canvass of said votes that less than two thirds of the votes cast were in favor of disincorporation, such legislative body shall declare the petition for disincorporation denied, in which case no new election shall be held on the question of disincorporating the corporation involved in said petition and vote until after the expiration of two years from date of the election so held. In case it shall appear from said canvass that two thirds of all the votes cast were in favor of disincorporation, said legislative body shall, under their hands, make and file in their office, and cause to be entered upon their record of proceedings, an order that the petition for such disincorporation be granted, and declaring that such corporation be disincorporated; said order to take effect at the time hereinafter provided.

Said legislative body shall, in case said corporation is so disincorporated, forthwith cause their clerk, or other officer performing the duties of clerk, by an order entered in their minutes, to make and transmit to the secretary of state and board of supervisors of the county in which said corporation is situated, a certified copy and abstract of the notice of election hereinbefore provided for, the whole number of electors voting for said disincorporation, and the number of electors voting against said disincorporation. Thirty days from and after the holding of the election, in case two thirds of the said votes were cast in favor of said disincorporation, said municipal corporation shall be forever disincorporated. Said legislative body shall forthwith, after ascertaining by said canvass that said disincorporation has been carried, determine the amount of the indebtedness of said municipal corporation, the amount of money in the treasury thereof, and the amount of any tax levy made by said corporation unpaid or not due, and all other indebtedness due or coming due to said corporation, and within thirty days from the date of said election shall transmit a certified statement of said amount to the board of supervisors of the county in which said municipal corporation is situated; and the treasurer of said corporation shall before the expiration of said thirty days, turn over to the treasurer of said county all moneys of said municipal corporation in his possession, and said county treasurer shall place said moneys in a special fund, to be drawn upon as hereinafter provided for. Upon the disincorporation of said municipal corporation, every public officer of said corporation shall immediately turn over to the board of supervisors of the county in which said corporation is situated, all public property of every nature and description in their possession; provided, however, that all court records of the recorder's court of the said municipal corporation shall be retained by said recorder as justice of the peace of the township, and as such justice of the peace he shall have authority to execute and complete all unfinished business standing on the same. Nothing contained in this act shall be held to relieve said municipal corporation, or the territory included within it, from any liability for any debt contracted by such municipal corporation prior to its disincorporation. All warrants for said indebtedness shall be drawn by the board of supervisors of the county in which said municipal corporation is situated, on the fund hereinabove provided for in the county treasury. If, at the time of said disincorporation, a tax shall have been levied by said municipal corporation, and remains uncollected, it shall be the duty of the tax collector of the county in which said municipal corporation was situated to collect said tax when due, and pay the same into the county treasury. All

property upon which any municipal tax has been levied and the same has become delinquent, either before or after the date of such disincorporation, and all property sold for any tax levied by said municipal corporation, may be redeemed by any party interested, by the payment to the county treasurer, upon the estimates of the auditor, of the money that would have been necessary to redeem such property, had said city not disincorporated. All moneys paid into the county treasury under the provisions of this act shall be placed to the credit of the special fund hereinbefore provided for. If, at any time after the disincorporation of such municipal corporation, it should be found that there is not sufficient money in the treasury to the credit of the fund hereinabove provided for, with which to pay any indebtedness of said municipal corporation, the board of supervisors of said county shall have the power, and it shall be their duty to levy, and there shall be collected from the territory formerly included within said municipal corporation, a tax or taxes sufficient in amount to pay the said indebtedness, of said municipal corporation, as the same shall become due; such tax or taxes, assessments, and collections shall be made in the same manner and at the same time that other taxes of said county are levied and collected, and shall be an additional tax upon the property included within said territory for the payment of said debts. If, after payment of the debts of said municipal corporation, there shall remain any surplus in the hands of said county treasurer to the credit of the fund hereinbefore mentioned, the money so remaining shall be transferred to the school fund of the districts or district covered by said municipal corporation. [Amendment, Stats. 1899, 13.]

§ 2. The board of supervisors of the county in which any such municipal corporation has been disincorporated, shall have the power, and it shall be their duty, if the board of trustees or other legislative body of such corporation shall fail or refuse to return to said board of supervisors the statement of said amounts as hereinbefore in this act provided, to ascertain the indebtedness of said municipal corporation at the time of its disincorporation, and the amount of money in its treasury and the amount due to it at the said time. Said board of supervisors shall make provision for the collection of the amounts due to said municipal corporation, and for the closing up of its affairs, and any act or acts necessary for such purpose and not otherwise herein provided for, shall, upon the order of said board of supervisors directing the same, be as fully done and performed by the officer or officers performing similar duties for the said county, and with as full effect as if the same had been performed by the proper officer of said municipal corporation, before disincorporation, and said county shall succeed to and possess all the rights of said municipal corporation in and to said indebtedness, and shall have power to sue for or otherwise collect any such debts, in the name of the county. All costs and expense of ascertaining the facts hereinbefore mentioned, and all other costs and expense incurred by the board of supervisors in the execution of the powers and duties of said board of supervisors, provided for in this act, shall be paid out of the special fund in said county treasury hereinbefore in this act provided for. All provisions of this act relating to the settlement of a municipal corporation after disincorporation shall be applicable to the winding up of the affairs of any disincorporated municipality whether disincorporated before or after the passage of this act. [Amendment, Stats. 1899, 13.]

§ 3. This act shall take effect and be in force from and after its passage.

Mintzer vs. Schilling, 117 Cal. 361, 362, 49 Pac. Rep. 209; Frederick vs. City San Luis Obispo, 118 Cal. 391, 392, 50 Pac. Rep. 661.

NOTES UPON OMITTED STATUTES.

The statute of 1885, 42, ch. XXXVII, authorizing cities of the fifth class to obtain waterworks, was cited in Santa Cruz Water Co. vs. Kron, 74 Cal. 223, 15 Pac. Rep. 772, and was repealed by Stats. 1889, 399, ch. CCLXI, tit. Public Improvements, herein given.

The statute of 1883, 370, ch. LXXXII, authorizing municipalities other than of first class to refund indebtedness, was amended by Stats. 1893, 59; 1895, 203, and repealed by Stats. 1897, 75, LXXXII, herein given, as amended by Stats. 1901, 274. The original statute and its amendment were cited in City Los Angeles vs. Teed, 112 Cal. 319, 328, 44 Pac. Rep. 580; Murphy vs. San Luis Obispo, 119 Cal. 624, 629, 51 Pac. Rep. 1085, 39 L. R. A. 444.

The statute of 1895, 191, ch. CLXIX, concerning the making of contracts for municipal lighting, amended by Stats. 1897, 210, was repealed by Stats. 1903, 32. The statute was cited and sustained in Santa Rosa L. Co. vs. Woodward, 119 Cal. 30, 31, 50 Pac. Rep. 1025.

The statute of 1897, 135, authorizing the granting of franchises for street railroads, etc., within municipalities, is evidently superseded and repealed by Stats. 1905, 777, ch. DLXXXVIII, herein given under tit. Franchises. The former statute is cited in Horton vs. City Los Angeles, 119 Cal. 602, 51 Pac. Rep. 956; Pereria vs. Wallace, 129 Cal. 397, 62 Pac. Rep. 61; Railroad Commrs. vs. Market St. R. Co., 132 Cal. 677, 680, 64 Pac. Rep. 1065; Pool vs. Simmons, 134 Cal. 621, 624, 66 Pac. Rep. 872; In re Johnston, 137 Cal. 115, 116, 122, 69 Pac. Rep. 973.

NAME—CHANGE OF.

See tit. Conveyances.

NAPA CITY.

See tit. Municipal Corporations.

NAPA COUNTY—RECORDS.

To provide for the transcribing and transferring certain records in Sonoma and Solano counties to the county of Napa.

(Stats. 1858, 65, ch. LXXXII.)

§ 1. The board of supervisors of the county of Napa are hereby authorized to contract with the recorders of the counties of Sonoma and Solano, at a rate not exceeding twenty-five cents per folio, to transcribe into suitable books, to be provided by said board, accurate and full copies of deeds, mortgages, powers of attorney, plots, and other evidences of title, to all lands situated within the county of Napa; also, all records kept or made by, as well as acknowledgments taken before alcaldes, or other officers acting under former Mexican or California laws, and now of record in the recorders' offices of said counties of Sonoma and Solano, respectively; and certify the same.

§ 2. Said records, so transcribed, as provided in the foregoing section, shall be filed in the recorder's office of Napa County, and shall thereafter be held and deemed as original records, for all purposes affecting the lands therein described.

NAPA COUNTY—COURT-HOUSE.

To provide for building and furnishing a new court-house and jail.

(Stats. 1877-8, 569, ch. CCCLXXXIX.)

The bonds were made to mature in twenty years, and the act is omitted.

NAPA COUNTY—BOUNDARIES.

An act to define the northern boundary-line of this county was passed (Stats. 1871-2, 305, ch. CCXXIX), but it is believed that

the same is superseded by § 3958 of the Political Code, enacted four days later than the statute.

NAPA COUNTY—RECORDS.

For the better preservation of certain records of Napa County.

(Stats. 1863-4, 500, ch. CCCCLII.)

§ 1. J. H. Howland, the recorder of Napa County, may procure suitable books, and transcribe therein the following records of Napa County, viz.: Book A of Deeds; Book A of Mortgages; Book A of Leases; Book A of Assignments of Mortgages; Book A of Notices of Actions; Book A of Pre-emption Claims; Book A of Brands; Book A of Notices of Lien; Book A and B of Marriages; Book A of Miscellaneous Records; Book A of Releases of Mortgages; Book A of Official Bonds; Book A of School Warrants; Book A and B of Judgment Transcripts; Book A of Attachments; Book A of Power[s] of Attorney; Book A of Swamp Lands.

§ 2. After making such transcripts they shall each be certified to by the recorder as true and correct copies of the original, and thereafter shall be parts of the official records of said county.

§ 3. The board of supervisors of said county shall order the auditor of said county to draw warrants in favor of the said recorder on the general county fund of said county for the actual cost of such books, and they shall also allow and pay in the same manner to the recorder, for his services in transcribing such records one half of the amount that is now by law allowed him for recording and indexing records in said county.

§ 4. This act shall take effect from and after its passage.

NAPA COUNTY—RECORDS.

To legalize certain notarial acknowledgments in Napa County.

(Stats. 1875-6, 572, ch. CCCIX.)

§ 1. All acknowledgments of deeds and other instruments of writing, whereby real estate, or any interest therein, is conveyed or may be affected, heretofore taken before N. M. Bonham, acting as a notary public in and for Napa County, and by him certified in the usual legal form, from and after the passage of this act have the same force and effect, and the records thereof, and of the deeds and instruments so acknowledged, if they shall have been admitted to record, shall impart notice to the same extent as though such acknowledgment had been taken before and certified by an officer authorized by law to take and certify such acknowledgments.

§ 2. This act shall take effect from and after its passage.

NAPA RIVER.

See tit. Fish and Game.

NAPA STATE HOSPITAL—ADDITIONAL LAND.

Making an appropriation for the purchase of land adjoining the Napa State Hospital and for the construction thereon of a dam and storage reservoir.

(Stats. 1905, 801, ch. DCIV.)

§ 1. The sum of forty thousand (\$40,000) dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to be expended

by the board of managers of the Napa State Hospital for the purchase of land adjoining the lands of the said Napa State Hospital and the erection thereon of a dam and storage reservoir for the use and benefit of the said Napa State Hospital.

§ 2. The state controller is hereby authorized and directed to draw his warrants for the sum herein appropriated and made payable to the board of managers of the Napa State Hospital and the state treasurer is directed to pay the same.

§ 3. This act shall be in effect from and after its passage.

See note to tit. *Insane*.

NATIONAL GUARD OF CALIFORNIA.

Regarding organizations, officers, and members of the National Guard who entered the United States volunteer service in the Spanish-American war; their privileges, and exemptions, and retirements, and providing for the return to the National Guard of such organizations, officers and members.

(Stats. 1899, 158, ch. CXXVII.)

§ 1. Each and all of the officers and members of the regiments and companies of the National Guard of the state of California who were mustered into the United States volunteer service in the Spanish-American war of eighteen hundred and ninety-eight and have been discharged therefrom are hereby granted leave of absence from the time of their mustering into the United States volunteer service until being mustered out of the same, and that within one hundred and fifty days from their being so mustered out they may report for duty to the brigadier-general of the brigade from which they went, if a regiment; or to the commanding officer of the regiment or battalion from which they went, if a company or division; and they shall at once be recognized as belonging to the National Guard and returned to duty as a company, division, battalion, or regiment, which they were at the time they entered said volunteer service, and any company or division not having the minimum number required by law shall recruit up to the requisite number within the time above specified.

All officers of such companies, divisions, battalions, and regiments as entered said volunteer service, and shall return to the National Guard as above provided for, shall continue to serve under the commissions held by them at the time they entered the said volunteer service for the unexpired portion of their respective commissions, the same as if they had not entered such volunteer service, and had remained continuously in the National Guard.

Those officers of the National Guard who entered said volunteer service, but whose term of office would have expired had they remained in the National Guard, are hereby granted all the privileges, exemptions, and retirements up to the date of their being mustered out of said volunteer service, the same as if they had remained in the National Guard, and, should they return to duty within the time herein provided, and be re-elected to any commissioned office, as provided by law, their time shall be continuous for all purposes, as if their said terms had not expired.

Officers and members of the regiments, battalions, companies, and divisions of the National Guard, who did enter the said volunteer service with their respect-

ive commands, if they report for duty with such commands, provided they resume their places in the National Guard, as above provided for, are granted continuous service, as in the National Guard, for all purposes up to such time as they so report; those who do not so report are hereby granted honorable discharge from the National Guard, as of the date of the mustering into said volunteer service of their respective organizations.

§ 2. In computing the term of service for any purpose regarding privileges and exemptions and retirements provided by law for officers and members of the National Guard, the time which any officer or enlisted man has served or may hereafter serve in said volunteer service shall be computed and allowed for as continuous service, the same as if such service had been in the National Guard, and including such time not exceeding one hundred and fifty days to those already mustered out of such service, and such time as may be provided under this act for those not yet mustered out of such service to the time when he shall report for duty in the National Guard as hereinbefore provided; and the same shall apply to any volunteer whose term of service in the National Guard expires before being mustered out of said volunteer service, or who re-enters the National Guard within the time provided for in this act.

§ 3. The governor is hereby authorized and empowered to prescribe the time for the re-entry into the National Guard of those organizations, officers, and members who entered in said volunteer service but have not yet been discharged therefrom, after they shall have been so discharged, and they may re-enter the National Guard upon the terms and conditions, except as to time, provided in this act, and they are hereby granted leave of absence for the entire period they have been or may be in said volunteer service.

§ 4. No organization, officer, or member hereby granted leave of absence shall draw or be allowed any pay, allowance, money, or property from the state of California for the time or any portion of the time they are hereby granted leave of absence, but all organizations shall be entitled to all military allowances provided by law as soon as they are recruited up to the minimum required by law, and that fact is reported to and approved by the governor.

§ 5. This act shall take effect immediately.

See KERR'S CYC. POL. CODE § 1973a and note.

NATIONAL GUARD—TO REORGANIZE.

To ascertain and pay armory rents, armorers' wages, and other expenses arising out of the mustering in of portions of the National Guard and Naval Militia into the United States volunteer service; also, the expenses incurred in reorganizing the National Guard and to result therefrom; and making an appropriation to pay the same.

(Stats. 1899, 80, ch. LXV.)

§ 1. The governor is hereby authorized and empowered to detail one or more officers of the National Guard, as he may deem necessary, to ascertain and determine what, if any, rents for armories, wages of armorers, and any other proper expenses should be paid in consequence of the mustering in of any of the National Guard or Naval Militia who were mustered into the United States volunteer service during the year eighteen hundred and ninety-eight, and also the claims

existing or which may have arisen, or which may arise by reason of the said National Guard and Naval Militia having been so mustered in, and also any and all proper charges and expenses against the state on account of the companies, or any of them, which were so mustered in, and by reason of the use of armories for the care and custody of the property left therein, and any proper expenses which have been incurred, or which may be incurred, in the reorganization of said guard.

§ 2. Any officer or officers so detailed shall have and receive the same pay and allowances as an officer of like rank in the United States Army for the time actually employed, together with reasonable traveling expenses.

§ 3. Any and all claims so adjusted by said appointed officers shall be transmitted through regular military channels to the governor, who shall submit the same to the board of military auditors, and, if approved by it, the controller is directed to draw his warrant in favor of the respective parties, to whom or in whose favor the claims have been allowed, and also his warrant for the pay and expenses of such detailed officer or officers, and for the amounts thereof, and the treasurer is directed to pay the same.

§ 4. The unexpended balance of the appropriation for "armory rents and other expenses, National Guard of California," for the forty-ninth and fiftieth fiscal years, or so much thereof as may be necessary, is hereby appropriated for the purposes of this act.

§ 5. This act shall take effect immediately.

NATIONAL GUARD OF CALIFORNIA.

To establish a camp of instruction for the National Guard of the state of California, and to authorize the acquisition, by donation, of a site for the same.

(Stats. 1899, 65, ch. LV.)

§ 1. There is hereby established, at or near the city of Santa Cruz, county of Santa Cruz, state of California, a camp of instruction for the National Guard of California.

§ 2. The adjutant-general, major-general, and the senior brigadier-general of the National Guard of the state of California, are hereby appointed commissioners for the purpose of selecting a suitable site for said camp of instruction, at or near said city of Santa Cruz. They shall, within ninety days after the passage of this act, examine the different tracts of land offered by the city of Santa Cruz and the county of Santa Cruz, or the citizens thereof, for the location of said camp of instruction, and shall select therefrom, if in their judgment practicable, a suitable site for said camp of instruction.

§ 3. After the selection of said site by the commissioners named in the preceding section, and their action meeting the approval of the governor, the said commissioners shall have the power to procure by donation the site so selected for said camp of instruction. The deed or deeds therefor shall be duly executed to the people of the state of California and delivered to the controller, after examination and approval by the attorney-general.

§ 4. Said camp of instruction shall be known as and called, the state camp of instruction for the National Guard of California.

§ 5. This act shall take effect immediately.

NATIONAL GUARD OF CALIFORNIA.

Providing that all encampments of the National Guard shall be held at the state camp of instruction, unless otherwise ordered.

(Stats. 1899, 148, ch. CXII.)

§ 1. The commander-in-chief may annually order an encampment for discipline and drill, either by division, brigade, regiment, battalion, or unattached company. All encampments shall be held at the state camp of instruction for the National Guard of California, unless otherwise ordered by the commander-in-chief.

§ 2. This act shall take effect immediately.

NATIONAL GUARD OF CALIFORNIA.

To provide for independent and unattached companies of the National Guard of the state of California, and to provide for the manner of making allowances for the use and support of such companies.

(Stats. 1901, 110, ch. XCV.)

§ 1. Any military organization composed of veterans of the Civil War, and having the minimum number required to constitute a company, if, upon the required examination they be found capable of efficient service to the state in the performance of active, garrison, or other military duty, may be organized and mustered into the military service of the state, notwithstanding the members thereof may be over the age of forty-five years; and such companies or organizations when so constituted shall be mustered into, and become a part of, the National Guard of the state, and shall be subject to all the laws regulating and governing the National Guard, except that they shall be deemed and considered independent, unattached companies, acting under the direct orders of the commander-in-chief.

§ 2. Such companies shall receive such allowances as may be approved and allowed by the state board of military auditors out of any moneys appropriated for the use of such companies; provided, however, that such allowances shall in no case exceed the sum of five hundred dollars for any one of such companies for any one fiscal year.

§ 3. This act shall take effect and be in force from and after its passage.

NATIONAL GUARD—NAVAL BATTALION.

To establish a naval battalion to be attached to the National Guard of California.

(Stats. 1893, 62, ch. XLIX.)

§ 1. There shall be allowed, in addition to the companies of the organized uniformed militia, known as the National Guard of California, provided for in section nineteen hundred and twelve of an act entitled "An act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, relating to the National Guard of California, not more than four companies of naval militia, which shall constitute a battalion, to be known as the Naval Battalion of the National Guard.

§ 2. The battalion shall be commanded by a lieutenant-commander. Each company shall be commanded by a lieutenant, and shall contain one lieutenant, junior grade, two ensigns, and eighty petty officers and men.

§ 3. The staff officers of the battalion shall consist of one adjutant, one ordnance officer, one paymaster, and one surgeon, each with the rank of lieutenant, junior grade; also, one assistant surgeon and one assistant ordnance officer, each with the rank of ensign. All such officers shall be appointed and commissioned as staff officers upon the staff of a colonel commanding a regiment in the National Guard are appointed and commissioned.

§ 4. The organization of the naval militia shall conform generally to the provisions of the laws of the United States; and the system of discipline and exercise shall conform, as nearly as may be, to that of the Navy of the United States as it now is or may hereafter be prescribed by Congress. When not otherwise provided for, the government of the naval militia shall be controlled by the provisions of the Political Code relating to the National Guard of California, and the governor shall have power to alter, divide, annex, consolidate, or disband the same, whenever, in his judgment, the efficiency of the state forces will thereby be increased, and he shall have power to make such rules and regulations as may be deemed proper for the use, government, and instruction of the naval militia; but such rules and regulations shall conform to the provisions of this act, and as nearly as practicable to those governing the United States Navy.

§ 5. When the government of the United States is ready to supply arms and equipments, as well as material and opportunities for naval instruction and drill, the governor is hereby authorized to make the necessary arrangements for carrying the provisions of this act into effect. The duty of the naval militia required by law, or any part of it, may be performed afloat in United States vessels. Officers and men of the naval militia mustered temporarily into the service of the United States for instruction and drill, and receiving compensation therefor from the United States, shall not, during the same term, be entitled to compensation from the state.

§ 6. The governor is authorized to apply to the president of the United States for the detail of commissioned and petty officers of the Navy to act as inspectors and instructors in the art of naval warfare.

§ 7. The rank of officers given in the preceding sections is naval rank, and corresponds to rank in the National Guard of the state, as follows: Lieutenant-commander with major, lieutenant with captain, lieutenant, junior grade, with lieutenant, ensign with second lieutenant.

§ 8. The naval militia shall receive the same allowance from the state as is allowed the infantry battalions and companies.

§ 9. Any and all parts of chapter one hundred and seventy-six, entitled "An act to establish a naval battalion, to be attached to the National Guard of California," that may conflict with this act, are hereby repealed.

§ 10. This act shall take effect immediately.

The repealing clause in section 9 of the foregoing act is evidently intended to apply to Stats. 1891, ch. CLXXVI, upon the same subject.

NATURALIZATION—INDEX.

(Stats. 1871-2, 80.)

See tit. **County Government Act**, § 107.**NAVAL BATTALION.**See tit. **National Guard**.**NAVIGABLE WATERS.**See tits. **Clear Lake**; **Navigation**.See **KERR'S CYC. POL. CODE** §§ 2348, 2349.**NAVIGATION—LIGHTHOUSE SITES.**

Concerning submarine sites for lighthouses and other aids to navigation on the coast of this state.

(Stats. 1873-4, 621, ch. CCCCXLV.)

§ 1. Whenever the United States desire to acquire title to land belonging to the state, and covered by the navigable waters of the United States, within the limits thereof, for the site of lighthouse, beacon, or other aid to navigation, and application is made by a duly authorized agent of the United States, describing the site required for one of the purposes aforesaid, then the governor of the state is authorized and empowered to convey the title to the United States, and to cede to the said United States jurisdiction over the same; provided, no single tract shall contain more than ten acres, and that the state shall retain concurrent jurisdiction so far that all process, civil or criminal, issuing under the authority of the state, may be executed by the proper officers thereof, upon any person or persons amenable to the same, within the limits of land so ceded, in like manner and to like effect as if this act had never been passed.

§ 2. This act shall take effect immediately.

NAVIGATION—PROTECTION.See tit. **Buoys and Beacons**.See **KERR'S CYC. PEN. CODE** § 609.**NEVADA CITY.**See tit. **Municipal Corporations**.**NEW COUNTIES.**See tit. **Counties—New**.**NEW REPUBLIC.**See tits. **Municipal Corporations**; **Santa Rita**.**NORMAL SCHOOLS—LOS ANGELES.**

To establish a branch state normal school.

(Stats. 1881, 91, ch. LXXVII.)

§ 1. There shall be established in the county of Los Angeles, a school, to be called the Branch State Normal School of California, for the training and edu-

eating of teachers in the art of instructing and governing in the public schools of this state.

§ 2. The trustees of the "State Normal School" are hereby appointed and created trustees of the said branch normal school, with full power and authority to select a site for the permanent location of said branch normal school in the county of Los Angeles. Said trustees shall, within thirty days after the passage of this act, examine the different sites offered by the people of the county of Los Angeles for the location of the branch normal school buildings, and select therefrom a suitable location for said branch normal school buildings; and the site selected by them shall be and remain the permanent site for the branch state normal school; provided, that no buildings shall be erected in the county of Los Angeles until a deed in fee-simple of the land selected by the board of trustees of the state normal school shall be made to the state.

§ 3. Said branch state normal school shall be governed and regulated by the same laws now governing and regulating the state normal school.

§ 4. The sum of fifty thousand dollars is hereby appropriated out of any moneys in the general fund of the state, not otherwise appropriated, for the building of said branch state normal school.

§ 5. The controller of state shall draw warrants from time to time, as the work shall progress, in favor of said board of trustees of the state normal school, upon their requisition for the same; provided, that the cost to this state for the erection of said branch normal school buildings shall not exceed the amount herein appropriated.

§ 6. The said buildings shall be erected and the moneys hereby appropriated therefor expended under the direction of the board of trustees of the state normal school, and all labor performed upon said buildings shall be done by the day's work.

§ 7. This act shall take effect and be in force from and after its passage.

NORMAL SCHOOLS—NORTHERN CALIFORNIA.

To establish a branch normal school in northern California.

(Stats. 1887, 60, ch. LIII.)

§ 1. There shall be established in the northern portion of this state a school to be called the Northern Branch State Normal School of California, for the training and educating of teachers in the art of instructing and governing the public schools of the state.

§ 2. The trustees of the state normal school are hereby appointed and created trustees of said northern branch normal school, with full power to select a site for the permanent location of said northern branch state normal school in some county north of the city of Marysville. Said trustees shall, within thirty days after the passage of this act, examine the different sites offered by the people of the northern part of this state for the location of the northern branch normal school buildings, and select therefrom a suitable location for said branch state normal school buildings, and the site selected by them shall be and remain the permanent site for the northern branch state normal school. Said trustees shall receive the same per diem and mileage as members of the legislature, while

engaged in the selection of the site, payable from the appropriation hereinafter contained, to an amount not exceeding five hundred dollars; provided, that no buildings shall be erected for said school, until a deed in fee-simple of the land selected by the board of trustees of the state normal school shall be made to the state.

§ 3. The sum of fifty thousand dollars is hereby appropriated out of any money in the general fund of the state not otherwise appropriated, for the building of said northern branch state normal school, and forwarding the same.

§ 4. The controller of state shall draw warrants from time to time as the work shall progress in favor of said board of trustees of the said state normal school, upon their requisition for the same; provided, that the cost to this state for the erection of said normal school buildings shall not exceed the amount herein appropriated.

§ 5. Said northern branch state normal school shall be governed and regulated by the same laws now governing and regulating the state normal school.

§ 6. The said buildings shall be erected, and the moneys herein appropriated therefor expended, under the direction of the board of trustees of the state normal school, and all labor performed upon said buildings shall be by the day's work.

§ 7. This act shall take effect and be in force from and after its passage.

NORMAL SCHOOLS—SAN DIEGO.

Establishing a state normal school in San Diego County, California, and making an appropriation of fifty thousand dollars therefor.

(Stats. 1897, 114, ch. CV.)

§ 1. There is hereby established in the county of San Diego, state of California, a school, to be called the State Normal School of San Diego, California, for the training and educating of teachers in the art of instructing and governing in the public schools of this state.

§ 2. The governor shall, within thirty days after the passage of this act, appoint five persons, who, with the governor and state superintendent of public instruction, shall constitute the board of trustees of said state normal school of San Diego.

§ 3. The said trustees, as provided for in section two of this act, are hereby appointed and created trustees of said state normal school, with full power and authority to select a site for the permanent location of said state normal school in the said county of San Diego. Said trustees shall, within ninety days after the passage of this act, examine the different sites offered by the people of the said county of San Diego for the location of the said state normal school buildings, and select therefrom a suitable location for said state normal school buildings; or should there be offered a proper site, with suitable buildings already constructed thereon, adapted for the use of such school, it shall be in the discretion of such trustees to accept such site; and the site selected by them shall be and remain the permanent site for the said state normal school of San Diego: provided, that no money shall be expended for said school until the site selected has been donated to this state, and a deed in fee-simple of the land selected by the said board of trustees of said normal school shall be made to this state.

§ 4. The said state normal school of San Diego shall be governed and regulated by the same laws now governing and regulating the other state normal schools of this state.

§ 5. The sum of fifty thousand dollars is hereby appropriated out of any moneys of the state not otherwise appropriated, for constructing, furnishing, and maintaining said state normal school of San Diego.

§ 6. The controller of state is hereby authorized to draw warrants from time to time, as the work shall progress, in favor of the said board of trustees of said state normal school of San Diego, upon their requisition for the same, and the state treasurer is directed to pay the same.

§ 7. The moneys hereby appropriated therefor shall be expended under the direction of the said board of trustees of the state normal school of San Diego.

§ 8. This act shall take effect and be in force from and after its passage.

NORMAL SCHOOLS—SAN FRANCISCO.

To establish a state normal school in the city and county of San Francisco, state of California, and making an appropriation of twenty thousand dollars.

(Stats. 1899, 177, ch. CXLI.)

§ 1. There shall be a state normal school established in the city and county of San Francisco, state of California, to be called the San Francisco State Normal School, for the training and educating of teachers and others in the art of instructing and governing the public schools of this state.

§ 2. The governor shall, within thirty days after the passage of this act, appoint five persons, who, with the governor and state superintendent of public instruction, shall constitute the board of trustees of said normal school.

§ 3. The said trustees shall, within sixty days after their appointment, establish and cause to be opened and carried on in said city and county of San Francisco the said normal school, and shall provide suitable accommodations for the same, and may accept from the said city and county of San Francisco, or from the board of education thereof, a building or buildings for the use of said school.

§ 4. The said state normal school shall be governed by the laws governing the present state normal schools of this state, and the terms of office of said trustees shall be the same as the terms of trustees of the said other state normal schools.

§ 5. The sum of twenty thousand dollars, not more than one half of which shall be available in the fifty-first fiscal year, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for establishing and maintaining said state normal school of San Francisco, and providing suitable accommodations therefor.

§ 6. The controller of state shall draw his warrant or warrants for said amount as required in favor of said trustees.

§ 7. This act shall take effect immediately.

NORMAL SCHOOLS—SAN JOSE.

To establish a state normal school.

(Stats. 1869-70, 787, ch. DXXIX.)

§ 1. There shall be established in the city of San Jose, county of Santa Clara, a school to be called the California State Normal School; for the training and

educating of teachers in the art of instructing and governing in the public schools of this state.

§ 2. The governor of the state of California, the superintendent of public instruction of the said state, and the principal of the state normal school, are hereby appointed and created trustees, with full power and authority to select a site for the permanent location of the state normal school in the city of San Jose. Said trustees shall, within thirty days after the passage of this act, examine the sites offered by the city of San Jose for the location of the state normal school buildings, and select therefrom a suitable location for said state normal school buildings, and the site selected by them shall be and remain the permanent site for the state normal school buildings.

§ 3. The mayor and common council of the city of San Jose are hereby authorized, empowered and directed, immediately after such site shall have been selected by said trustees, to convey such site, by good and sufficient conveyance, to the trustees of the state normal school, who are hereby authorized and empowered to receive and hold the same, and the title thereto, in trust and for the use of said state normal school; provided, that whenever the state normal school shall be removed from said site selected, the same, and the title thereto, shall, immediately upon such removal, revert to said city of San Jose and become the property thereof, absolutely.

§ 4. The governor, the state superintendent of public instruction, and five others to be appointed by the governor, shall constitute the board of normal school trustees. The appointed members, at the first meeting of the board of trustees, shall determine, by lot, their respective terms of office, which shall be for two, four, six, eight and ten years.

§ 5. Said board of trustees shall have power, and are hereby authorized and required, to remove to said city of San Jose, county of Santa Clara, the state normal school now located in the city of San Francisco, and to continue the same for the gratuitous instruction of such persons residing in this state as may desire to prepare themselves to teach in the public schools of this state. They shall have power to expend all moneys appropriated or donated for building school-rooms and boarding-houses, and for furnishing the same, as well as all moneys for the current expenses of the school.

§ 6. The board of trustees shall have power to elect a principal, and all other teachers that may be deemed necessary; to fix the salaries of the same, and to prescribe their duties.

§ 7. It shall be the duty of the board of trustees to prescribe the course of study, and the time and standard of graduation, and to issue such certificates and diplomas as may, from time to time, be deemed suitable. These certificates and diplomas shall entitle the holders to teach in any county in this state, for the time and in the grade specified in the certificate or diploma.

§ 8. The board of trustees shall prescribe the text-books, apparatus and furniture, and provide the same, together with all necessary stationery, for the use of the pupils.

§ 9. Said board shall, when deemed expedient, establish and maintain a training or model school, or schools, in which the pupils of the normal school shall be

required to instruct classes under the supervision and direction of experienced teachers.

§ 10. Said board shall make rules for the government of the boarding house or houses; shall superintend the same, and make all necessary arrangements for conducting the same in the most economical manner that will make them self-sustaining.

§ 11. At each annual meeting the board shall determine what number of pupils may be admitted into the school; and this number shall be appointed among the counties of this state, according to the number of representatives from said counties in the legislature; provided, that teachers holding first or second grade certificates may be admitted from the state at large. The county superintendents and the county boards of examination shall hold competitive examinations before the first of May in each year, of all persons desiring to become pupils of the normal school, which examinations shall be conducted in the same manner as examinations for third-grade teachers' certificates. A list shall be made of the applicants thus examined, and they shall receive recommendation in the order of standing in the examination; provided, that superintendents may discriminate in favor of those whose age and experience specially fit them to become normal pupils. After the expiration of the year, a new list must be prepared, and those not recommended must be re-examined or forfeit their right to recommendation.

§ 12. To secure admission into the junior class of the normal school, the applicant, if a male, must be seventeen years of age, or if a female, sixteen years of age; to enter an advanced class the applicant must be proportionately older. Applicants must also present letters of recommendation from their county superintendent, certifying to their good moral character, and their fitness to enter the normal school. Before entering, all applicants must sign the following declaration: "We hereby declare that our purpose in entering the California state normal school is to fit ourselves for the profession of teaching, and that it is our intention to engage in teaching in the public schools of this state."

§ 13. Pupils from other states and territories may be admitted to all privileges of the school, on presenting letters of recommendation from the executives or state school superintendents thereof, and the payment of one hundred dollars. The money thus received shall be appropriated to the purchase of library and apparatus. Pupils from other states shall not be required to sign the declaration named in section twelve.

§ 14. The superintendent of public instruction shall be the executive agent and secretary of the board of trustees of the normal school. He shall visit the school from time to time, inquire into its condition and management, enforce the rules and regulations made by the board, require such reports as he deems proper from the teachers of the school and officers of the boarding-house, and exercise a general supervision of the same. He shall in connection with the executive committee appointed by the board, expend all moneys appropriated for salaries and incidental expenses, and shall make a semiannual statement, in writing, to the board, of all moneys received and expended.

§ 15. It shall be the duty of the principal of the school to make a detailed

annual report to the board of trustees, with a catalogue of the pupils, and such other particulars as the board may require or he may think useful. It shall also be his duty, authorized by the board, to attend county institutes, and lecture before them on subjects relating to public schools and the profession of teaching.

§ 16. The board of trustees shall hold two regular meetings annually, at such time and place as may be determined; but special meetings may be called by the secretary, by sending written notice to each member.

§ 17. The board shall have power to make all rules and regulations necessary for discharging the duties named above.

§ 18. An annual ad valorem tax of two cents on each one hundred dollars value of taxable property in this state is hereby levied, for the twenty-second and twenty-third fiscal years, and is directed to be collected in the same manner as other state taxes are collected; and the money raised by said tax shall be paid into the state treasury, and said money and the money by this act appropriated shall be known as the state normal school building fund.

§ 19. Said state normal school trustees shall, from time to time, as the services herein provided for, or by them ordered and performed, and labor done or materials furnished for said state normal school buildings, draw orders on the state controller, specifically describing the services rendered, labor performed or materials furnished, together with the amount, and to whom payable. Upon presentation of such orders, the state controller shall draw his warrant on the state treasurer for the amounts thereof, payable out of said state normal school building fund; and the state treasurer is hereby authorized and directed to pay such warrants out of said fund. Said state normal school trustees and controller each shall keep a correct register of the warrants or orders issued, the amount of each warrant, to whom ordered paid and for what services or materials given; such registers shall be kept in their respective offices for public inspection.

§ 20. The sum of twenty-four thousand dollars is hereby appropriated, biennially, out of any moneys in the general fund not otherwise appropriated, which said appropriation shall be set apart at the commencement of each fiscal year, to support the California state normal school, and the controller is hereby directed to draw his warrants, from time to time, on the state treasurer, payable out of said appropriation; and the unexhausted remainder, if any, of any appropriation for such claims or accounts as have been audited by the board of trustees of the normal school, or the executive committee thereof, and the board of examiners; provided, that the bills for the salaries of regular teachers may be allowed by the controller without the indorsement of the board of examiners; provided, also, that the aggregate of warrants drawn shall not exceed, in any one fiscal year, one half the appropriation herein made for such years, together with the remainder of unused appropriations, if any, of any previous fiscal year or years; and whenever, at the close of any fiscal year, a balance remains to the credit of the California state normal school fund, such balance shall be carried forward and added to the appropriation for the succeeding year.

§ 21. All classes may be admitted into the normal school who are admitted, without restriction, into the public schools of this state.

§ 22. The provisions of this act shall take effect from and after its passage;

provided, that the removal of the school shall be made whenever the board of trustees decide that suitable accommodations have been prepared for the same.

§ 23. All acts or parts of acts passed by the senate and assembly of the state of California, conflicting with the above, are hereby repealed.

NORMAL SCHOOLS—SAN JOSE.

Authorizing and empowering the board of school trustees of the city of San Jose, county of Santa Clara, state of California, to erect, construct, and build, and maintain, at the expense of the said city of San Jose a high school building on the north side of the state normal school grounds at San Jose between Fifth and Seventh streets in said city.

(Stats. 1897, 167, ch. CXI.)

§ 1. The state of California hereby authorizes and empowers and grants to the board of school trustees of the city of San Jose, county of Santa Clara, the right and privilege to erect, construct, build, and maintain a high school building, and conduct and carry on a high school therein at the expense of said city of San Jose, on the grounds of the state normal school at San Jose; said building to be erected on the north side of said normal school grounds, between Fifth and Seventh streets in said city at such point as may be agreed upon between the board of trustees of said state normal school and the board of school trustees of said city of San Jose. And the right and privilege is hereby granted to said city of San Jose to enter into and upon the lands and premises necessary for the said high school building, and grounds necessary to the use thereof, for the purpose of laying water and gas mains and pipes, or for the erection of electric light poles and wires, and for all other purposes necessary to the building and constructing of such high school building and the maintenance of a high school therein.

§ 2. The city of San Jose shall keep so much of the lands and premises belonging to said state normal school as may be used by said city of San Jose for the use of said high school in good condition at the expense of said city of San Jose, and shall gravel and care for the walks in and upon the lands so used for high school purposes, and maintain and care for the grass plots and ornamental trees and shrubs, and beautify and ornament so much of said lands and premises as may be agreed upon between the board of trustees of said normal school and the board of school trustees of said city.

§ 3. This act shall take effect immediately.

NORMAL SCHOOLS—SAN JOSE.

To authorize and empower the trustees of the state normal school at San Jose to reconvey to the city of San Jose a parcel of land situate in said city and belonging to the state of California, to the said city of San Jose, for the purpose of erecting and maintaining a free public library upon said parcel of land.

(Stats. 1901, 575, ch. CLXXX.)

§ 1. The board of trustees of the state normal school at San Jose are hereby authorized and empowered to reconvey to the city of San Jose, county of Santa

Clara, for the purpose of erecting and maintaining thereon a free public library, a parcel of land situate, lying and being in said city of San Jose, and described as follows, to wit: Commencing at the southeasterly corner of San Fernando and Fourth streets, the same being the northwesterly corner of Washington Square, and running thence easterly along the southerly line of said Fernando Street two hundred and seventy-five feet; thence at right angles southerly two hundred and seventy-five feet; thence at right angles westerly two hundred and seventy-five feet to the easterly line of said Fourth Street, and thence northerly along said easterly line of Fourth Street to the point of beginning, the same being a portion of Washington Square.

§ 2. This act shall take effect from and after its passage.

NORTH SAN FRANCISCO HOMESTEAD AND RAILROAD ASSOCIATION —LANDS.

To authorize the sale and conveyance to the North San Francisco Homestead and Railroad Association of certain overflowed lands in the city and county of San Francisco.

(Stats. 1863-4, 482, ch. CCCCXXXVI.)

§ 1. The commissioners of swamp and overflowed lands are authorized, whenever requested by the officers of the North San Francisco Homestead and Railroad Association, to appraise the value of the land belonging to the state in front of the lands of said association, in the northerly portion of the city and county of San Francisco, west of Buchanan Street, commencing at the northerly boundary of the lands of said association, at high-water mark, on said Buchanan Street, and extending to a distance north where the water is not exceeding six feet deep at low water along the entire front of the land of said association upon said northerly boundary thereof, and extending westerly to the government reservation; provided, that in no case shall it extend to a depth of water exceeding six feet at the lowest stage of the tide, nor interfere with the water front of the adjoining property; and, provided, further, that neither the said association, nor its employees, agents, successors, or assigns, shall have any right to levy or collect any tolls, dockage, or wharfage; but this proviso shall not apply to Fillmore Street Wharf, in case of its purchase by or transfer to said association; and said board of swamp-land commissioners shall certify the amount found to be the value of said land to the treasurer of the state, and also to the surveyor-general, and upon the approval of the survey of the county surveyor by the surveyor-general, and upon the payment to the treasurer of the state, for the benefit of the wharf and dock fund, of the amount so found to be the value of said land, the register of the state land office shall certify said approval and payment to the governor, whereupon a patent shall issue for said land to said corporation.

§ 2. Within thirty days after the appraisalment by said commissioners, the surveyor of the city and county of San Francisco shall make out a plat and field-notes of said survey. He shall, within ten days thereafter, record the same in his office, and forward duplicate certified copies of the same to the surveyor-general, and it shall be the duty of the surveyor-general, upon examination and approval of said survey, to return one of the duplicate copies, with his approval indorsed

thereon, to said county surveyor, to be by him delivered to the parties desiring the survey; provided said approval and return of duplicate shall be within ten days after the receipt of said plat and field-notes.

§ 3. All expenses attending said appraisalment by the commissioners, together with all the costs incident to an accurate survey of the said lands by the surveyor of the city and county of San Francisco, shall be paid by said association.

§ 4. The said association or its assigns shall not have the power to make any use of said lands, or any part thereof, which shall interfere with the navigation of the bay of San Francisco.

§ 5. This act shall take effect and be in force from and after its passage.

NOTARY PUBLIC—GOAT ISLAND.

Authorizing the appointment of a notary public in the city and county of San Francisco, to reside and transact notarial duties at Yerba Buena Island, or Goat Island, in the bay of San Francisco, in addition to the number of notaries now authorized by law for said city and county.

(Stats. 1903, 26, ch. XXIII.)

§ 1. The governor is hereby authorized and empowered to appoint and commission one notary public in and for the city and county of San Francisco, to reside and transact his notarial duties at Yerba Buena Island, known as Goat Island, in the Bay of San Francisco, in addition to the number of notaries now authorized by law to be appointed in said city and county. Such notary shall be subject to the general laws relating to notaries public.

§ 2. This act shall take effect immediately.

See KERR'S CYC. POL. CODE §§ 791-793, 799, 800.

NUISANCES—PUBLIC.

See tit. District Attorney.

See KERR'S CYC. PEN. CODE § 373a.

NURSES—EDUCATION—REGISTRATION.

To promote the better education of practitioners of nursing the sick in the state of California, to provide for the issuance of certificates of registration as a registered nurse to qualified applicants by the board of regents of the University of California, and to provide penalties for violation hereof.

(Stats. 1905, 533, ch. CDV.)

§ 1. Commencing in the month of July, nineteen hundred and five, and at least semiannually thereafter, the board of regents of the University of California shall hold, or cause to be held, such examination or examinations as they may deem proper to test the qualifications and fitness of applicants for certification and registration as registered nurses within the state of California. Such examinations shall be practical in character, and a reasonable notice designating the time and place thereof must be given by publication in at least two daily papers published within the state of California.

§ 2. All applicants for examination must furnish satisfactory evidence of good moral character and of having complied with the provisions of this act relative to qualifications; and any examiner may inquire of any applicant for examination concerning his or her character, qualifications or experience, and may take testimony in regard thereto, under oath, which he is hereby empowered to administer.

§ 3. All persons satisfactorily passing such examinations shall be granted by the board of regents of the University of California a certificate stating that he or she is a registered nurse within the state of California, and shall thereafter be known and styled as a registered nurse. The secretary of the said board of regents shall keep in his office a book showing the names of all persons to whom certificates as registered nurses have been granted. Graduates of all training schools for nurses which shall have been approved by the said board of regents may be certified as registered nurses, without examination, at any time within three years after the passage of this act, upon payment of the fee prescribed in section four hereof.

§ 4. Every person applying for examination, or for registration as a registered nurse, shall pay to the secretary of the said board of regents a fee of five dollars, which shall in no case be refunded. A certificate of registration shall be void three years after the date thereof, but a new certificate may be issued to the holder upon the payment of a fee of one dollar. All expenses incurred in carrying out the provisions of this act shall be paid from the fees and fines collected hereunder, and the surplus receipts, if any, shall be used to provide for education in nursing.

§ 5. (I) No person shall be eligible for examination or for registration as a registered nurse who shall not furnish satisfactory evidence of having graduated from a nurses' training school: (a) that is attached to a reputable hospital; (b) that gives a general training and a systematic, theoretical and practical course of study covering a period of at least two years; (c) and that has been approved by the board of regents of the University of California.

(II) After January first, nineteen hundred and eight, no person shall be eligible for examination or for registration as a registered nurse, unless:

(a) He or she is at least twenty-one years of age;

(b) He or she is a graduate of a training school approved by the board of regents of the University of California, and after said date no school shall be approved or remain on the list of schools approved by said board of regents, unless it is attached to a general hospital, and its course requires a three years' training in that hospital, provided that a training school approved as aforesaid may graduate students who have spent a year therein subsequent to completing a two years' course in the training school attached to a special hospital.

(III) After January first, nineteen hundred and ten, no person shall be eligible for examination or for registration unless he or she furnishes satisfactory evidence of having substantially completed the course of studies pursued in the grammar schools of the state of California, or an equivalent course.

§ 6. The board of regents of the University of California shall have power to revoke any certificate of registration for incompetency, dishonesty, intemperance, immorality or unprofessional conduct, after a full and fair investigation

of the charges preferred against the accused. Prior to such hearing a written copy of such charges shall be furnished to the accused, who shall have at least twenty days' notice in writing of the time and place where such charge will be heard and determined.

§ 7. Any person procuring registration under this act, by false representation or who shall refuse to surrender a certificate of registration which has been revoked as set out in this act, or who shall use the title of "registered nurse," or append the letters "R. N." or any other words, letters or figures to indicate that the person using the same is a registered nurse, unless such person shall be lawfully entitled so to do, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than five days nor more than six months, or by both such fine and imprisonment; provided, however, that nothing in this act contained shall be construed to prohibit or affect the gratuitous nursing of the sick, nor to nursing the sick for hire by a person who does not in any assume to be a registered nurse.

OAKLAND—CITY.

Granting certain salt-marsh and tide lands of the state to the city of Oakland.

(Stats. 1873-4, 132, ch. CXIII.)

§ 1. The interest of the state of California in those lands situate in the city of Oakland, known and described as lots numbered one to nine, inclusive, in section thirty-six, and lots eleven to fourteen, inclusive, in section twenty-five, in township one south, range four west, Mount Diablo meridian, United States survey, as the same are laid down on the official map, entitled "Map number three of the salt-marsh and tide lands situate in the county of Alameda," prepared by order of the board of tide-land commissioners, and surveyed under the direction of G. F. Allardt, chief engineer of the tide-land survey, is hereby granted to the city of Oakland in trust, for the use of the people thereof, and of the people of the state as a water park.

§ 2. The city of Oakland shall have no power to convey, encumber, or lease any of the said lands, or grant the use of any of the same, for any purpose whatever, but shall cause the same to be kept and maintained for the purposes mentioned in the first section of this act, and for none other. In case the said city shall attempt to convey, encumber, lease, or grant any use of any of said lands, the same shall revert to the people of the state; and the attorney-general may bring an action to enforce a reconveyance of the same to the state.

§ 3. This act shall take effect immediately.

OAKLAND—HARBOR.

To facilitate the construction of a canal for the improvement of Oakland Harbor.

(Stats. 1875-6, 862, ch. DLXXXI; supplemented and amended 1877-8, 113, ch. CIII.)

§ 1. The board of supervisors of the county of Alameda is hereby authorized and directed, during the present year, to levy, and cause to be collected, in the

same manner as other county taxes, a special tax upon the property of said county, sufficient to raise the sum of twenty-five thousand dollars, which shall be set apart as a special fund, to be known as the "Canal Fund," and if, from any cause, the said special tax shall not yield the full sum of twenty-five thousand dollars, the treasurer of said county shall transfer from the general fund to the canal fund a sufficient sum to make up the deficiency.

§ 2. The said sum, or so much thereof as may be necessary, shall be applied to the payment of any damages that may be finally awarded by judicial decree to the claimants of any lands that may be condemned and taken by the United States for the purposes of a canal between the bay of San Leandro and the estuary of San Antonio, for the improvement of the Oakland Harbor.

§ 3. Upon the certificate of the United States district attorney for California, that on proceedings for condemnation damages have been awarded to the claimants of said lands, and that the decree concerning the same has become final, the supervisors of Alameda County shall direct the auditor of said county to draw his warrant upon the county general fund in such sums as shall be necessary to realize the sum of twenty-five thousand dollars in United States gold coin, in favor of the clerk of the court in which such proceedings for condemnation were had for the damages so awarded, and the treasurer of said county shall pay the warrant with legal interest, in United States gold coin; provided, that if the damages be made payable in lawful currency of the United States, said board of supervisors shall direct such warrant to be drawn, and said auditor shall draw such warrant, for such sum in United States gold coin as will purchase, at then current rates of premium or discount, the said sum of twenty-five thousand dollars in lawful currency of the United States, and the said clerk of said court shall convert the same into lawful currency and pay the same to the parties entitled under the decree of condemnation. [Amendment, Stats. 1877-8, 113.]

[Amendatory act (Stats. 1877-8, 113) also contained the following section:

"§ 3. All acts and parts of acts in conflict with this act are hereby repealed."

§ 4. If, after paying the said damages, there shall remain any unexpended balance in said canal fund, the treasurer shall transfer the same to the general fund.

§ 5. This act shall take effect immediately.

The supplementary act above referred to relates first to a transfer of certain funds in the following language:

"§ 1. The board of supervisors of the county of Alameda are hereby authorized and empowered to direct the treasurer and auditor of said county to transfer the sum of twenty-six thousand seven hundred and

fifty-four dollars and twenty cents from the canal fund to the general fund of said county."

Following the above provision is the amendment of section 3 of the Act of 1877-8, as inserted in the foregoing statute.

See tit. **Municipal Corporations.**

OFFICE—ELIGIBILITY.

To secure to native-born and naturalized citizens of the United States the exclusive right to be employed in any department of the state, county, city and county, or incorporated city or town government in the state.

(Stats. 1901, 589, ch. CLXXXV.)

§ 1. No person, except a native-born or naturalized citizen of the United States, shall be employed in any department of the state, county, city and county, or incorporated city or town government in this state.

§ 2. It shall be unlawful for any person, whether elected, appointed or commissioned to fill any office in either the state, county, city and county, or incorporated city or town government of this state, or in any department thereof, to appoint or employ any person to perform any duties whatsoever, except such person be a native-born or naturalized citizen of the United States.

§ 3. No money shall be paid out of the state treasury, or out of the treasury of any county, or city and county, or incorporated city or town, to any person employed in any of the offices mentioned in section two of this act, except such person shall be a native-born or naturalized citizen of the United States.

§ 4. This act shall take effect immediately.

And as to eligibility, see tit. **Females.**

OFFICE—REMOVAL FROM.

To execute and carry into effect section three of article twenty of the constitution of the state of California.

(Stats. 1901, 552, ch. CLXVII.)

§ 1. Whenever any person within this state shall hold any office or position of public trust and shall have taken the oath of office prescribed by section three of article twenty of the state constitution upon entering upon such office, or shall, after his election or appointment, have offered to take such oath, it shall be unlawful to remove such person from such office or position of public trust because such person has not complied with some or any provision of any law, charter or regulation prescribing an additional test or qualification for such office or position of public trust, and any person who is removed or threatened with removal from any office or position of public trust under any pretense or device whatever, if the real reason be because of non-compliance with provisions requiring such additional test or qualification, shall be entitled to restrain such unlawful removal or to enforce restoration by process of injunction both prohibitory and mandatory.

§ 2. It shall be unlawful for any person having the power of removal from office of any public official, state or local, to remove or threaten to remove such official from his office because such official in the appointment of any person to a position of public trust under such last-named official, refuses to require any test or additional qualification than the oath referred to in section one of this act as a condition of permitting such appointee to enter upon or remain in such position of public trust; and such person making or threatening such unlawful removal from office may be restrained by prohibitory and mandatory injunction from effecting such removal under any pretense or device if the real reason of such removal or threatened removal be or was such as herein declared unlawful.

§ 3. This act shall take effect immediately.

A statute (1873-4, 911, ch. DCLX) provided for removal from office for violations of official duties. Under that statute, see *Covarrubias vs. Supervisors*, 52 Cal. 622, 623; *Fraser vs. Alexander*, 75 Cal. 147, 148, 16

Pac. Rep. 757; *Wickersham vs. Brittan*, 93 Cal. 34, 40, 28 Pac. Rep. 792, 29 Pac. Rep. 51, 15 L. R. A. 106n; *Crossman vs. Kennistown*, 97 Cal. 379, 380, 32 Pac. Rep. 448.

OFFICERS—COUNTY.

For residence and office hours, see **KERR'S CYC. POL. CODE** § 4116; and see tits. **County Government**; **Constable**; **Justice of the Peace**; **Surveyor**.

OFFICERS.

See tits. **County Government; County Officers.**

OFFICERS—INTOXICATION.

Relating to the intoxication of officers.

(Stats. 1880, 77, ch. LXXV.)

§ 1. Any officer of a town, village, city, county or state, who shall be intoxicated while in discharge of the duties of his office, or by reason of intoxication is disqualified for the discharge of, or neglects his duties, shall be guilty of a misdemeanor, and on conviction of such misdemeanor shall forfeit his office; and in such case the vacancy occasioned thereby shall be filled in the same manner as if such officer had filed his resignation in the proper office, and it had been accepted by the proper authority; provided, such acceptance shall have been necessary to make the office vacant.

OFFICERS—STATE.

Forbidding the employment of the inmates of state institutions in the manufacture, or production of articles, for the use of state officers, or the officers and employees of state institutions.

(Stats. 1903, 210, ch. CXC.)

§ 1. No inmate of any state institution shall be employed in the manufacture or production, of any article, intended for the private and personal use of any state officer, or officer or employee of any state institution; provided, that this act shall not prevent repairing of any kind nor the employment of such inmates in household or domestic work connected with such institution.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect on and after its passage.

See tits. **Bonds Required by Law; Fees of Officers; Labor—Protection of Wages; Public Officers.**

OFFICIAL BONDS.

See tit. **Bonds Required by Law.**

OIL—PETROLEUM.

See tit. **Oil Lands.**

OIL LANDS—INJURY BY WATER.

To prevent injury to oil or petroleum-bearing strata or formations by the infiltration or intrusion of water therein.

(Stats. 1903, 399, ch. CCLXXV.)

§ 1. It shall be the duty of the owner of any well that may be drilled in the state of California on lands producing or containing oil or petroleum to properly case such well with metal casing, in accordance with the best approved methods, landing the casing in the clay or other water-impervious strata or formation immediately underlying the surface water-bearing sands or strata, and also to, if the well be drilled to a sufficient depth, land the casing in the

clay or other water-impervious strata or formation underlying such oil or petroleum producing or bearing sands or strata, and effectually shut off all water overlying and underlying the oil or petroleum producing or bearing sands or strata, and effectually prevent any water from penetrating such oil or petroleum producing or bearing sands or strata.

§ 2. It shall be the duty of the owner of any well referred to in section one of this act, before abandoning same, to withdraw the casing therefrom and securely fill such well with clay, earth or mortar, or other good and sufficient materials, used alone or in suitable combination and thoroughly packed and tamped in the well, to a point one hundred feet above the upper oil or petroleum bearing or producing sand or strata, and while withdrawing the casing therefrom, and [to] effectually shut off and exclude all water underlying and overlying such oil or petroleum bearing or producing sand or strata from penetrating such sand or strata.

§ 3. The term "owner" as herein used shall mean and include each and every person, persons, copartnership, partnership, association or corporation owning, managing, operating, controlling or possessing any well mentioned in sections one and two of this act, either as principal or principals, lessee or lessees of such principal or principals, and their and each of their employees; the term "oil or petroleum producing or bearing sand or strata" as herein used shall mean and include any bed, seam or stratum of rock or sand or other material which contains, includes or yields earth oil, rock oil, or petroleum oil or natural gas or either of them.

§ 4. Any violation of the provisions of this act shall be deemed a misdemeanor.

OLD MISSIONS.

See tit. **Historic Property.**

OLEOMARGARINE.

See tits. **Butter; State Dairy Bureau.**

For note on oleomargarine, see ante, p. 99

OLETA—TOWN.

See tit. **Municipal Corporations.**

OLIVE OIL—IMITATION.

To regulate the sale of imitation olive oil, and to repeal an act entitled "An act to regulate the sale of olive oil," approved March tenth, eighteen hundred and ninety-one.

(Stats. 1893, 210, ch. CLXXVII.)

§ 1. That for the purpose of this act every article, substance, or compound, or oil other than that extracted solely from the fruit of the olive tree, made in the semblance of olive oil extracted solely from the fruit of the olive tree, is hereby declared to be imitation olive oil.

§ 2. Each person who manufactures imitation olive oil shall place upon every bottle, can, or other vessel containing such imitation oil, a label, with the words

“imitation olive oil” printed thereon in capital letters, in a clear and durable manner, in the English language, in plain type, designated and known as twenty-four-point letter type (two-line pica), of a Gothic face; said label shall also state plainly the name and address of the manufacturer or compounder, the name and place where manufactured and put up, and also the names and actual percentages of the different ingredients contained in each bottle, can, or vessel.

§ 3. No person, by himself or another, shall knowingly ship, consign, or forward by any common carrier, whether public or private, any imitation olive oil, unless the same be marked as provided in section two of this act, and no carrier shall knowingly receive, for the purpose of forwarding or transporting, any imitation olive oil, unless it shall be marked as hereinbefore provided, consigned, and by the carrier receipted for, as imitation olive oil; provided, that this act shall not apply to any goods in transit between foreign countries and across the state of California.

§ 4. No person shall knowingly have in his possession or under his control any imitation olive oil, unless the bottle, can, or vessel, or other package containing the same, be clearly marked as provided in section two of this act.

§ 5. No person, by himself or another, shall knowingly sell or offer for sale imitation olive oil under the name of or under the pretense that the same is pure olive oil; and no person, by himself or another, shall knowingly sell any imitation olive oil unless he shall inform the purchaser at the time of sale that the same is imitation olive oil, and shall deliver to the purchaser at the time of sale a statement, clearly printed in the English language, which shall refer to the article sold, and which shall contain, in plain type, designated and known as twenty-four-point letter type (two-line pica), of a Gothic face, in capital letters, the words “imitation olive oil,” and shall give the name and place of business of the manufacturer or compounder.

§ 6. Every person having possession or control of any imitation olive oil, which is not marked as required by the provisions of this act, shall be presumed to have known, during the time of such possession or control, that the same was imitation olive oil.

§ 7. No person shall expose for sale any oil bearing the semblance of olive oil, manufactured out of the state, and represent that it is manufactured in this state, nor shall offer for sale any such oil upon the receptacle of which is any cut, design, or mark intended to convey the belief that such is manufactured in this state.

§ 8. Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both fine and imprisonment, as the court may direct.

§ 9. It shall be the duty of the state board of horticulture and the state analyst to enforce the provisions of this act.

§ 10. An act entitled “An act to regulate the sale of olive oil,” approved March tenth, eighteen hundred and ninety-one, is hereby repealed.

It will be observed that section 1 of the foregoing act purports to “amend” section 1 of the former act, and that in section 10 of this the former act is repealed.

OPTOMETRY.

To regulate the practice of optometry and for the appointment of a board of examiners in the matter of said regulation.

(Stats. 1903, 285, ch. CCXXXIV.)

§ 1. The practice of optometry is defined as follows, namely: The employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general.

§ 2. It shall be unlawful for any person to practise optometry in the state of California unless he shall first have obtained a certificate of registration and filed the same, or a certified copy thereof, with the clerk of the county of his residence, all as hereinafter provided.

§ 3. There is hereby created a board, whose duty it shall be to carry out the purposes and enforce the provisions of this act, and shall be styled the California state board of examiners in optometry. Said board shall be appointed by the governor as soon as practicable after the passage of this act, and shall consist of three persons engaged in the actual practice of optometry, and residing in the state of California. Each member of said board shall hold office for a term of four years, and until his successor is appointed. Appointments to fill vacancies caused by death, resignation or removal, shall be made for the residue of such term by the governor. The members of said board, before entering upon their duties, shall respectively take and subscribe to the oath required to be taken by other officers, and filed with the clerk of the county in which said member resides, and said board shall have a common seal.

§ 4. Said board shall choose at its first regular meeting, and annually thereafter, one of its members president, and one secretary thereof, who severally shall have the power during their term of office to administer oaths and take affidavits, certifying thereto under their hand and the seal of the board. Said board shall meet at least once in each year at the state capitol, and in addition thereto, whenever and wherever the president and secretary thereof shall call a meeting; a majority of said board shall at all times constitute a quorum. The secretary of said board shall keep a full record of the proceedings of said board, which records shall at all reasonable times be open to public inspection.

§ 5. Every person before beginning to practise optometry in this state, after the passage of this act, shall pass an examination before said board of examiners. Such examination shall be confined to such knowledge as is essential to the practice of optometry. Any person having signified to said board his desire to be examined by them shall appear before them at such time and place as they may designate, and before beginning such examination shall pay to the secretary of said board, for the use of said board, the sum of ten dollars, and if he shall successfully pass such examination, shall pay to said secretary, for the use of said board, a further sum of five dollars on the issuance to him of a certificate. All persons successfully passing such examination shall be registered in the board register, which shall be kept by said secretary, as licensed to practise optometry, and shall also receive a certificate of such registration, to be signed by the president and secretary of said board, which shall be filed as hereinbefore provided.

§ 6. Every person who is actually engaged in the practice of optometry in the state of California, at the time of the passage of this act, shall, within six

months thereafter, file an affidavit in proof thereof with said board, who shall make and keep record of such person, and shall, in the consideration of the sum of five dollars, issue to him a certificate of registration.

§ 7. All persons entitled to a certificate of registration under the full provisions of section six, shall be exempt from the provisions of section five of this act.

§ 8. Recipients of said certificate of registration shall present the same for record to the clerk of the county in which they reside, and shall pay a fee of fifty cents to the clerk for recording the same. Said clerk shall record said certificate in a book to be provided by him for that purpose. Any person so licensed removing his residence from one county to another in this state shall, before engaging in the practice of optometry in such other county, obtain from the clerk of the county in which said certificate of registration is recorded, a certified copy of such record, or else obtain a new certificate of registration from the board of examiners, and shall, before commencing practice in such county file the same for record with the clerk of the county to which he removes, and pay the clerk thereof for recording the same, a fee of fifty cents. Any failure, neglect or refusal on the part of the person holding such certificate or copy of record to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same. Such board shall be entitled to a fee of one dollar for the reissue of any certificate, and the clerk of any county shall be entitled to a fee of one dollar for making and certifying a copy of the record of any such certificate.

§ 9. Any person entitled to a certificate, as provided for in section six of this act, who shall not within six months after the passage thereof make written application to the board of examiners for a certificate of registration, accompanied by a written statement, signed by him, and duly verified before an officer authorized to administer oaths within this state, fully setting forth the grounds upon which he claims such certificate, shall be deemed to have waived his right to a certificate under the provisions or refusal on the part of any person holding such certificate under the provisions of such section. Any failure, neglect or refusal on the part of any person holding such certificate to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same.

§ 10. Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted.

§ 11. Out of the funds coming into the possession of said board, each member thereof may receive, as compensation, the sum of five dollars for each day actually engaged in the duties of his office, and mileage at three cents per mile for all distance necessarily traveled in going to and coming from the meetings of the board. Said expenses shall be paid from the fees and assessments received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the state treasury. All moneys received in excess of said per diem allowance and mileage, as above provided for, shall be held by the secretary as a special fund for meeting expenses of said board and carrying out the provisions of this act, and he shall give such bonds as

the board shall from time to time direct, and the said board shall make an annual report of its proceedings to the governor on the first Monday in January of each year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act.

§ 12. Every registered optometrist who desires to continue the practice of optometry in this state shall annually on such date as the board of optometry may determine, pay to the secretary of said board a registration fee to be fixed by the board, but which shall in no case exceed the sum of two dollars per annum, for which he shall receive a renewal of said registration; and in case of default in such payment, by any person, his certificate may be revoked by the board of examiners, under twenty days' notice of the time and place of considering such revocation. But no certificate shall be revoked for such non-payment if the person so notified shall pay before or at such time of consideration his fee and such penalty as may be imposed by said board; provided, that said board may impose a penalty of five dollars and no more on any one person so notified, as a condition of allowing his certificate to stand; provided, further, that said board of examiners may collect any such fees by suit.

§ 13. Said board shall have power to revoke any certificate of registration granted by it under this act for conviction of crime, habitual drunkenness for six months immediately before a charge to be made, gross incompetency, or contagious or infectious disease; provided, that before any certificate shall be so revoked, the holder thereof shall have notice in writing of the charge or charges against him, and at a day specified in said notice, at least five days after the service thereof, be given a public hearing, and have opportunity to produce testimony in his behalf and to confront the witnesses against him. Any person whose certificate has been so revoked, may, after the expiration of ninety days, apply to have the same regranted, and the same shall be regranted him, upon a satisfactory showing that the disqualification has ceased.

§ 14. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty dollars, nor not more than one hundred dollars, or to be confined not less than one month, nor more than three months in the county jail, and in default of payment of said fine shall be imprisoned in the county jail at the rate of one day for every two dollars of the fine so imposed. And all fines thus received shall be paid into the common school fund of the county in which such conviction takes place.

§ 15. Justices of the peace and the respective municipal courts shall have jurisdiction of violations of this act. It shall be the duty of the respective district attorneys to prosecute all violations of this act.

§ 16. Nothing in this act shall be construed to apply to physicians and surgeons authorized to practise under the laws of the state of California, nor to persons who sell spectacles or eye-glasses in the ordinary course of trade, and who do not attempt to employ subjective and objective mechanical means to determine the accommodative and refractive states of the eye.

§ 17. This act shall take effect and be in force from and after its passage.

ORANGE COUNTY—ORGANIZATION.

To create the county of Orange, to define the boundaries thereof, to determine the county seat by an election, and to provide for its organization and election of officers, and to classify said county.

(Stats. 1889, 123, ch. CX.)

§ 1. Upon the assent of two thirds of the qualified electors, voting at an election to be held for that purpose as provided in sections four and five of this act, there shall be formed out of the southeast part of Los Angeles County a new county, to be known as the county of Orange, which shall rank as a county of the fifteenth class, until the census of eighteen hundred and ninety is taken and a new apportionment is had.

§ 2. The boundaries of Orange County shall be as follows: Beginning at a point in the Pacific Ocean three miles southwest of the center of the mouth of Coyote Creek, proceeding up said creek in a northeasterly direction until it intersects the township line between township three south of ranges ten and eleven west; thence north on said township line to the northwest corner of section six, township three south, range ten west; thence east on said township line until it intersects the boundary line between San Bernardino and Los Angeles counties; thence along said boundary southeasterly until it intersects the boundary line of San Diego County; thence along said line southwest until it reaches the Pacific coast; thence in the same direction to a point three miles in said Pacific Ocean; thence in northwesterly line parallel to said coast to the point of beginning.

§ 3. The county seat of the county of Orange shall be chosen as hereinafter provided.

§ 4. The governor shall, when this act takes effect, appoint five persons, residents and electors of the county of Orange, who shall be and constitute a board of commissioners, to perfect the organization of said county, a majority of whom shall constitute a quorum. Said commissioners shall meet in the city of Santa Ana, within twenty days after their appointment, and after being duly sworn to faithfully discharge their duties as prescribed in this act, shall organize by electing from their number a president and secretary; upon the first Monday of the second month next succeeding the passage of this act, it shall be the duty of the commissioners to order a special election to be held within the boundaries of the proposed county of Orange, on the first Tuesday after the first Monday of the month following, and they shall cause notice of the same to be printed in two newspapers of general circulation published in said proposed county of Orange. The said notice shall contain the names of the election officers, and a list of the polling-places, with the time of opening and closing the polls on election day (which day shall also be named). Such notices, if published in weekly newspapers shall appear as often as said newspapers are published between the day of meeting, as aforesaid, and the date of such election: if printed in papers issued oftener than once a week, then the same shall appear once in each week from the day of such meeting to the date of election. The precincts existing at the general election held on November sixth, eighteen hundred and eighty-eight, and the fractions of such precincts then existing, as are divided by the creation of the proposed county severally, constitute the

precincts for such election. The said election shall be held and conducted under the general election laws of the state, applicable to special elections. At such election all persons voting for the creation of Orange County shall have written or printed on their ballots the words: "For the new County of Orange," or equivalent words; and all persons voting against the creation of the new county of Orange shall have written or printed on their ballots the words: "Against the new County of Orange," or equivalent words. If, at such election, less than two thirds of the qualified electors voting for and against the creation of the proposed county vote for the creation of said county, then this act shall cease to be of any force or effect. If, at such election, two thirds of the qualified electors voting for and against the creation of the proposed county vote in favor thereof, said commissioners shall then divide the new county into a convenient number of judicial townships, road and school districts, define their boundaries, and designate the name of each. They shall also divide said county into five supervisorial districts, to contain as nearly as practicable an equal number of inhabitants, and number said districts. They shall also establish election precincts in said county. They shall give thirty days' notice, by publication in one or more newspapers published in the county, of the precincts established, and shall designate the name and boundaries of each precinct, and number and boundaries of each supervisorial district. Said commissioners, their president and secretary, are hereby authorized and required to discharge the same duties as are now required by law of boards of supervisors and county clerks in the counties of this state, so far as the same applies to holding elections, canvassing returns, and issuing certificates of election. They shall keep a full record of all their proceedings, transmitting to the secretary of state a certified copy thereof, filing the originals with the original election returns, in the county clerk's office, as soon as he shall have been qualified, and thereupon the powers and duties of said commissioners shall cease and terminate.

§ 5. Within a period not exceeding six months from the time of the first meeting of the commissioners heretofore provided for, said commissioners shall order an election to be held in said county of Orange, which shall be held in the manner, so far as practicable, as required by the Political Code, sections one thousand and forty-one to one thousand two hundred and ninety-seven, inclusive; provided, that said board of commissioners shall continue to hold their meetings in the city of Santa Ana until they have completed the canvass of the returns of the election, and issued the certificates of election required by this act. There shall be chosen at said election, by the qualified electors of said county, one judge of superior court, one district attorney, one county clerk, who shall be ex officio clerk of the superior court and clerk of the board of supervisors, one recorder, who shall be ex officio auditor, one sheriff, who shall be ex officio tax collector, one county treasurer, one county assessor, one county superintendent of public schools, one county surveyor, one county coroner, who shall be ex officio public administrator. There shall be chosen at said election one supervisor for each supervisorial district in said county; provided, that all duly elected and qualified supervisors of Los Angeles County who, at the taking effect of this act, are residents of Orange County, shall hold their offices for the term provided by law, upon having duly qualified as

supervisors of Orange County for the respective districts in which they reside, as said districts are organized by the action of the board of commissioners provided for in this act. There shall be chosen at said election two justices of the peace, and two constables for each township; provided, that all justices of the peace and constables, acting as such at the time of the passage of this act, residents of Orange County, shall hold their offices for the time provided by law, upon having qualified as justices of the peace and constables of Orange County for the respective townships in which they severally reside, as said townships are organized by the action of the board of commissioners provided for in this act. There shall be chosen at said election three school trustees for each school district; provided, that all school trustees acting as such at the time of the passage of this act, residents of Orange County, shall hold their offices for the time provided by law, upon having duly qualified as school trustees of Orange County for the respective school districts in which they severally reside, as said districts are organized by the board of commissioners provided for in this act. There shall also be chosen at said election one road overseer for each road district; provided, that all road overseers acting as such at the time of the passage of this act, residents of Orange County, shall hold their offices for the time provided by law, upon having duly qualified as road overseers of Orange County for the respective road districts in which they severally reside, as said districts are organized by the action of the board of commissioners provided for in this act. All the officers elected at said election, or who qualify under the provisions of this act, shall enter, immediately after their qualification, upon the discharge of the duties of their respective offices, and shall hold such offices until the time provided by general law for the election and qualification of such officers of this state, and until their successors are elected and qualified. At said election shall also be submitted to the qualified electors the location of the county seat of said Orange County, and the place receiving the highest number of votes therefor shall be declared by the commissioners the county seat of said county.

§ 6. All qualified electors of this state, who have been residents and electors of said territory of Orange County for ninety days preceeding the election provided for in section five of this act, shall be qualified to vote at said election. The register of Los Angeles County, used at the general election held in the year eighteen hundred and eighty-eight, in the territory of the new created county of Orange, shall be prima facie evidence for the qualification of electors. The county clerk of Los Angeles County is hereby directed to furnish the commissioners of Orange County a certificate under seal, showing the additional names of voters on the great register of Los Angeles County registered as residing in the territory forming the county of Orange since the last great register of Los Angeles County was printed, and the certificate of the county clerk of Los Angeles County, under seal, showing the registration of any qualified voter who resides in the territory forming the county of Orange, up to the date of election, shall entitle the holder thereof, if otherwise qualified by law, to vote at said election.

§ 7. It shall be the duty of the board of supervisors of Orange County, whose election is by the act provided for, to meet at the county seat on the first Monday of the month subsequent to their election and qualification, the

member representing district number one being chairman. They shall then allow such remuneration to the commissioners and officers of election as they may think just and proper; and such allowance shall be paid by a warrant drawn in favor of each by the proper officers. Said board, or a majority of them, shall then appoint two freeholders, residents of Orange County, to act as a board of commissioners, whose duty it shall be to meet a like number of commissioners, appointed by the board of supervisors of Los Angeles County, at a time and place agreed on. Such joint commissioners shall then organize by appointing from their number a president and secretary, and shall immediately proceed to determine the indebtedness of said county existing at the time this act takes effect, as hereinafter provided. Said commissioners shall have power to compel the attendance of such persons and the production of such books and papers before them as they may require in performing the duties imposed by this act; and it shall be the duty of the sheriffs of Los Angeles and Orange Counties to execute all lawful orders of said commissioners in their respective counties; and for any services performed the sheriffs shall be allowed the same fees as are allowed for like services in civil cases; and all the witnesses attending before these commissioners, by their order, shall be entitled to the same compensation and mileage as is allowed to witnesses in civil cases; provided, no witness shall be excused from attendance at the time and place mentioned in said order or subpoena by reason of the failure of the officer making service thereof to tender his fees in advance. Should any vacancy occur in said commissioners, by death, resignation, or otherwise, the board of supervisors of the county in which such vacancy shall occur shall have power to fill the vacancy by appointment. Should the commissioners before designated be unable to agree in the discharge of duties imposed by the provisions of this act, they are hereby required and empowered to appoint a fifth commissioner, which commissioner so appointed shall be a member of said board of commissioners from and after his appointment. The full number of commissioners shall be necessary to constitute a quorum for the transaction of business; and if said commissioners should fail, neglect, or refuse to appoint a fifth commissioner, as provided in this section, it shall be the duty of the governor of the state of California to appoint the fifth commissioner. They shall ascertain the total amount of indebtedness of Los Angeles County existing at the time this act takes effect, and also the total value of all assets of said county, including real estate, buildings, and bridges erected, or in progress of erection, money, and solvent credits of whatever nature, and any other property belonging to the said county of Los Angeles. They shall also ascertain the assessed value of all property in Los Angeles County under the assessment made in eighteen hundred and eighty-eight, and also the assessed value of the property under the same assessment assessed in the territory hereby set apart to form Orange County. They shall then find the balance of the total assets and indebtedness of Los Angeles County, and if there is a balance of indebtedness against said county, the same shall be divided between the two counties according to the following proportion: As the total assessed value of the property of Los Angeles County, at the time of the taking effect of this act, is to the total assessed value of the property in Orange County, so is the balance of said indebtedness so as aforesaid ascertained, to the amount

of said indebtedness to be assumed and paid by Orange County to Los Angeles County. Said commissioners shall then certify forthwith to the respective boards of supervisors of said counties of Orange and Los Angeles such amounts of the said indebtedness due from Orange County, together with the ascertained value of all bridges and other property estimated and reckoned among the assets of Los Angeles County, as aforesaid, erected or purchased by county funds, and situated in Orange County, which property shall be charged to the new county, and the amount thereof shall be an indebtedness to Los Angeles County, and shall thereupon become the property of said Orange County. In case said commissioners shall find a balance of assets of Los Angeles County over and above its liabilities, they shall belong to Orange County by the proportion aforesaid, and shall certify the same to the said boards of supervisors, together with the value of the bridges and other property as aforesaid; and if the amount of said balance of assets belonging to Orange County is less than the value of said property, then the difference between the two amounts shall be assumed and paid by Orange County to Los Angeles County; but if said amount is greater than the value of said property, then said Los Angeles County shall pay the difference between the two amounts to said Orange County. The board shall, in accordance with the general laws, levy state and county taxes. Twenty per centum of the county tax shall be collected and set apart as a sinking fund, to liquidate the debt due from Orange County to the county of Los Angeles, being the former's portion of the original indebtedness; and when there shall be five hundred dollars, or more, placed to the credit of the sinking fund, it shall be the duty of the board of supervisors of Orange County, provided no coupons of said county are past due, or in danger of being unprovided for on maturity, to draw, upon their own order, such sum as may be required to pay the principal and interest of one or more of the bonds of the county of Orange, and upon presentation to the treasurer of the county of Los Angeles, of the said sum of money, he shall surrender to the said board of supervisors such number of Orange County bonds as shall be redeemed by such payment. Said bonds shall then be canceled, and on their face countersigned by the chairman of the board of supervisors, and filed in the clerk's office. Said board of supervisors shall have and exercise such other powers and duties as are conferred by the general laws on boards of supervisors of this state. The levy of taxes and collections held for the first year shall be as effective as if levied at the time provided in the general laws.

§ 8. The board of supervisors of Orange County are hereby authorized to provide suitable books, and contract with some competent person to transcribe from the records of Los Angeles County such parts thereof as relate to property situated in Orange County, and said records, when so transcribed and certified, shall have the same force and effect as such original records. The person so employed shall have access to said records of Los Angeles County for said purpose of transcribing the same. The compensation for said services shall be fixed and allowed by the board of supervisors of Orange County, not to exceed for transcribing fifteen cents per folio. The recorder of Los Angeles County shall examine said transcript and certify to the correctness of each deed, mortgage, and other instrument, and affix his seal to the same; for which service he shall receive a sum not to exceed twenty-five cents for each instru-

ment so examined, certified and sealed. For each instrument found to be incorrectly transcribed, he shall receive a fee of fifty cents, to be deducted from the pay of the party who transcribed the same.

§ 9. All actions or special proceedings, whether original or upon appeal, civil or criminal, which shall be pending in the superior courts in the county of Los Angeles at the time of the organization of Orange County in which the defendants are residents of Orange County, shall be removed for trial and final determination to the superior court of Orange County, on motion of any party interested; provided, that all actions commenced for collection of licenses shall not be removed from the courts of Los Angeles County; provided further, that in all criminal cases where the offense was committed within the present limits of Orange County, upon the application of the district attorney of Orange County, said cases shall be removed to Orange County.

§ 10. The county officers of Orange County shall, except as otherwise provided by this act, be elected at the same time as county officers in other counties of this state, and shall hold their offices for the time fixed by law, and perform all duties required by the general laws of this state. They shall give bonds, as required in section four thousand one hundred and twenty-two of the Political Code, for the faithful discharge of their duties, to be approved by the judge of the superior court.

§ 11. The notaries public of Los Angeles County, residents of Orange County at the date of their appointment, shall hold their offices until the expiration of their terms.

§ 12. The superintendent of public schools of the county of Los Angeles shall furnish the superintendent of public schools of Orange County with a certified copy of the last school census list of the different school districts in the territory set apart to form Orange County, and draw his warrant on the treasurer of Los Angeles County, in favor of the superintendent of schools of Orange County, for all money that is or may be due by apportionment, or otherwise, to the different school districts of Orange County; and the auditor of Los Angeles County shall, in like manner, draw his warrant in favor of the auditor of Orange County for all money that is or may be due by apportionment, or otherwise, to the different road district funds in the territory set apart to form Orange County, and be properly credited to the respective districts in said county.

§ 13. The county of Orange shall be attached to and form a part of the thirty-ninth senatorial district and of the seventy-eighth assembly district, and until a new apportionment shall join Los Angeles County in electing a senator and assemblyman from said districts.

§ 14. This act shall take effect and be in force from and after the date of its passage and approval.

§ 7—Los Angeles County vs. Orange County, 97 Cal. 329, 330, 32 Pac. Rep. 316; Orange County vs. Los Angeles County, 114

Cal. 390, 393, 46 Pac. Rep. 173. Judge—People vs. Markham, 104 Cal. 232, 236, 37 Pac. Rep. 918.

OROVILLE—TOWN.

See tit. Municipal Corporations.

ORPHANS—ORPHAN ASYLUMS.

See *tits. Adoption; Apprentices; Children.*

State aid to, see Stats. 1880, 13, ch. XIX.
—County of San Luis Obispo vs. Gage, 139
Cal. 398, 400, 73 Pac. Rep. 174; and the
earlier cases cited: Grand Lodge I. O. G. T.
vs. Markham, 102 Cal. 169, 170, 36 Pac. Rep.

423; Lewis vs. Colgan, 115 Cal. 529, 535, 47
Pac. Rep. 357; Power vs. May, 123 Cal. 147,
151, 55 Pac. Rep. 796; Humboldt County vs.
Stern, 136 Cal. 63, 64, 68 Pac. Rep. 324.

OSTEOPATHY.

To regulate the practice of osteopathy in the state of California, and to provide for a state board of osteopathic examiners, and to license osteopaths to practise in this state, and punish persons violating the provisions of this act.

(Stats. 1901, 113, ch. XCIX.)

§ 1. That any person practising osteopathy in this state shall possess the qualifications required by this act.

§ 2. The Osteopathic Association of the State of California, incorporated under the laws of the state of California, shall appoint a board of examiners as soon as possible after the passage of this act, to be known as the state board of osteopathic examiners. This board shall consist of five (5) qualified practising resident osteopaths, each of whom shall be a graduate of a legally authorized college of osteopathy. Each member of said board shall serve thereon for a term of two years, and until his successor is appointed, except in case of the first board, on which two (2) members shall serve for two (2) years, and three (3) for three years, as specified in their appointment. In case of a vacancy by death or otherwise, there shall be appointed in like manner a person to serve through such unexpired term.

§ 3. Said board of osteopathic examiners shall elect a president, secretary, and treasurer, and shall have a common seal, and its president and secretary shall have power to administer oaths. Said board shall hold meetings for examination at the state capitol, or at some regularly conducted and legally authorized college of osteopathy, within the state, on the third Tuesday of February and July of each year, and such other meetings as may be deemed necessary, each session thereof not to exceed three days and shall issue a certificate of qualification to all applicants having a diploma, or who pass the required examinations, as provided by section four (4) of this act; said certificate shall be signed by the president and secretary of said board, and attested by its seal, and shall be conclusive as to the rights of the lawful holder of the same to practise osteopathy in this state. Said board shall keep a record of all its proceedings, and also a register of all applicants for a license, together with his or her name and age and time spent in the study and practice of osteopathy, and of the name and location of the college of osteopathy from which said applicant holds a diploma, and shall keep a register which shall show the names of all applicants licensed, or that are rejected under this act.

§ 4. It shall be unlawful for any person to practise osteopathy in this state without a license from said board. All persons practising osteopathy within this state prior to the passage of this act and holding a diploma from a legally authorized college of osteopathy, of good repute, may be licensed to practise

osteopathy in this state, by submitting to said board of osteopathic examiners such a diploma, and satisfying such board that they are the legal holders thereof, or by undergoing an individual examination in the following branches, to wit: Anatomy, physiology, chemistry, histology, pathology, gynecology, obstetrics, and theory and practice of osteopathy, and such other branches as the board shall deem advisable.

All persons, after August first, nineteen hundred and one, desiring to commence the practice of osteopathy in this state, shall apply to said board for a license to do so, and such applicant at the time and place designated by said board, or at a regular meeting of said board, shall submit a diploma from a legally incorporated college of osteopathy, recognized by the board of examiners. Having complied with the requirements of this act, said board shall grant a license to such applicant to practise osteopathy in the state of California, which license shall be granted by the consent of not less than three members of said board and attested by the seal thereof. For the support and maintenance of said board the fee for such examination and license shall be ten (\$10) dollars, not returnable, which shall be paid in advance to the treasurer of said board, and shall be applied by said board to defray all the expenses thereof.

§ 5. The certificate provided for in section four (4) of this act shall not authorize the holder thereof to prescribe or use drugs, nor to perform major surgery.

§ 6. The person receiving said license shall have it recorded in the office of the county clerk of the county in which he or she intends to practise, and the record shall be indorsed thereon. In case a person so licensed shall remove to another county to practise, the holder shall record his license in like manner in the county to which he or she removes.

§ 7. Any person practising osteopathy within the state without first having obtained the license herein provided for, or contrary to the provisions of this act, or who, for the purpose of obtaining such license, shall falsely represent himself or herself to be the holder of a diploma as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty (\$50) dollars, nor more than one hundred (\$100) dollars, or by imprisonment in the county jail for a period of not more than ninety days for each and every such offense.

§ 8. Any such certificate may be revoked by said board upon satisfactory proof of fraud or misrepresentation in procuring the same, or for any violation of the provisions of the certificate, or any gross immorality by the holder thereof.

§ 9. The system, method, and science of treating diseases of the human body, commonly known as osteopathy, is hereby declared not to be the practice of medicine or surgery, within the meaning of an act entitled "An act to regulate the practice of medicine in the state of California," approved April third, eighteen hundred and seventy-six, or any of the acts amendatory thereof.

§ 10. This act shall take effect and be in force from and after its passage.

OYSTERS.

To encourage the planting and cultivation of oysters.

(Stats. 1873-4, 940, ch. DCLXXI.)

§ 1. Any citizen of the United States may lay down and plant oysters in any of the bays, rivers, or public waters of this state; and the ownership of and the exclusive right to take up and carry off the same shall be continued and remain in such person or persons who shall have laid down and planted the same.

§ 2. Any person or persons who now have or who may hereafter lay down and plant oysters, as hereinbefore provided, shall stake or fence off the land on which the same is or hereafter may be laid down or planted, and such stakes or fences shall be sufficient marks of the boundaries and limits, and entitle such person or persons to the exclusive use and occupation thereof for the purposes prescribed in this act; provided, that nothing herein contained shall be deemed to authorize any impediments or obstructions to the navigation of any channels.

§ 3. Parties planting or laying down such oyster beds, shall record a full description of said bed or beds, in the county recorder's office in the county where the same is situated. The recorder shall record the description so furnished, in a book to be kept by him for that purpose, to be entitled a "Record of Oyster Beds."

§ 4. Any person or persons who shall enter upon any lot of land, in which there shall be oysters laid down and planted, and which at the time of such entry, shall be fenced or staked off pursuant to the provisions of this act, and who shall take up and carry off therefrom such oysters, without the consent or permission of the occupants and owners thereof, and shall wilfully destroy or remove, or cause to be removed or destroyed, any stakes, marks, or fences intended to designate the boundaries and limits of any land claimed and staked or fenced off pursuant to the provisions of this act, shall be guilty of a misdemeanor.

§ 5. The penalties of the Penal Code relative to misdemeanors are hereby made applicable to any violation of the provisions of this act.

§ 6. All fines and penalties collected for a violation of any of the provisions of this act, over and above the costs of suit, shall be paid into the common school fund of the county where the offense was committed.

§ 7. All parties availing themselves of the provisions of this act, shall erect or cause to be erected, on some conspicuous part of the grounds devoted to the planting of oysters a sign, not less than six feet in length and one foot in width, on which shall be painted in black letters upon a white ground the words: "Oyster Beds."

§ 8. All acts and parts of acts in conflict with the provisions of this act, and especially an act entitled "An act concerning oysters," passed April twenty-eighth, one thousand eight hundred and fifty-one, as also the act entitled "An act concerning oyster beds," approved April second, one thousand eight hundred and sixty-six, are hereby repealed.

§ 9. This act shall not apply to any tide-lands which the state may have sold to private parties; provided, further, that nothing herein shall be so construed as to interfere with the right of the state to sell and dispose of any of the tide-lands, nor to affect in any manner the rights of purchasers at any sale of tide-lands by the state.

§ 10. This act shall take effect and be in force from and after its passage.

See **KERR'S CYC. POL. CODE** § 19.

PARALYTICS.

See tit. **Children—Feeble-Minded.**

PARIS GREEN.

To prevent fraud in the sale of Paris green used as an insecticide.

(Stats. 1901, 69, ch. LIII.)

§ 1. It shall be the duty of each and every manufacturer of Paris green (commercial aceto-arsenite of copper) to be used as an insecticide within this state, and of every dealer in original packages of said Paris green manufactured outside of this state, before the said Paris green is offered or exposed for sale, or sold within this state as an insecticide, to submit to the director of the California agricultural experiment station at Berkeley, samples of said Paris green, and a written or printed statement setting forth: First, the brands of said Paris green to be sold, the number of pounds contained in each package in which it is put on the market for sale, the name or names of the manufacturers and the place of manufacturing the same; second, the statement shall set forth the amount of combined arsenic which the said Paris green contains, and the statement so furnished shall be considered as constituting a guarantee to the purchaser that every package of such Paris green contains not less than the amount of combined arsenic set forth in the statement.

§ 2. Every purchaser of said Paris green in original packages, which is manufactured outside of this state, who intends to sell or expose the same for sale, and every manufacturer of said Paris green within this state, shall, after filing the statement above provided for, with the director of the California agricultural experiment station at Berkeley, receive from the said director a certificate stating that he has complied with the foregoing statement, which certificate shall be furnished without charge therefor; said certificate when furnished shall authorize the party when receiving the same to deal in this state in the said Paris green. Any person who fails to comply with the terms of section one of this act shall not be entitled to such certificate and shall not be entitled to deal in said Paris green within this state. Nothing in this section shall be construed as applying to retail dealers selling said Paris green which has already been labeled and guaranteed.

§ 3. Paris green, when sold, offered or exposed for sale, as an insecticide, in this state, shall contain at least fifty per centum of arsenious oxide and shall not contain more than four per centum of the same in the uncombined state.

§ 4. The director of the California state agricultural station at Berkeley shall examine or cause to be examined different brands of Paris green sold, offered or exposed for sale within the state, and cause samples of the same

to be analyzed, and shall report results of analyses forthwith to the secretary of the state board of horticulture and to the party or parties submitting said samples, and such report shall be final as regards its quality.

§ 5. Any person or persons, firm, association, company or corporation violating any of the provisions of this act, and any person who shall sell any package of Paris green or any part thereof which has not been labeled as herein provided, shall be guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than two hundred dollars, together with the costs of the suit in an action caused to be brought by the state board of horticulture through its secretary in the name of the people of the state of California.

§ 6. The attorney-general of the state of California is charged with the prosecution of all such suits.

§ 7. This act shall take effect immediately.

PARKS—PUBLIC.

Giving the consent of the state of California to the reservation of certain lands by Congress.

(Stats. 1891, 107, ch. CVI.)

§ 1. The state of California hereby consents to the reservations created by the act of Congress, approved September twenty-fifth, eighteen hundred and ninety, entitled "An act to set apart a certain tract of land in the state of California as a public park," and the act of Congress, approved October first, eighteen hundred and ninety, entitled "An act to set apart certain tracts of land in the state of California as forest reservations;" and no further sales of school lands within the exterior boundaries of the tracts so reserved, as aforesaid, shall be made by the state.

§ 2. This act shall take effect from and after its passage.

PARKS, PUBLIC—SACRAMENTO.

For the protection of the property at East Park, in Sacramento County.

(Stats. 1873-4, 465, ch. CCCXXI.)

§ 1. It shall be unlawful, upon the grounds known as East Park, situated in the county of Sacramento, for any person to discharge any gun or pistol or firearm of any description, or to permit any dog or dogs of any description to run at large upon said grounds, or to pluck, gather, remove, injure, mutilate, or destroy any flower, shrub, plant, ornamental or shade tree, or to kill, wound, or entrap any bird, or to destroy any bird's nest or remove any eggs or young birds therefrom, or to take, kill, or destroy any fish within the limits of said grounds, or to tease or worry the animals kept on the grounds for the entertainment of visitors, or to drive any carriage, buggy, hack, or wagon upon or through any of the walks or avenues except those laid out expressly for that purpose, or to drive at a greater rate of speed than five miles per hour upon any of the carriageways, excepting upon the outer avenues.

§ 2. Any person violating any of the provisions of section one of this act shall be deemed guilty of a misdemeanor.

§ 3. This act shall take effect and be in force from and after its passage.

PARKS—PUBLIC.

Providing for the creation and management of the California Redwood Park, making an appropriation therefor, and creating a board of five commissioners, with power to make purchases, and to manage said California Redwood Park.

(Stats. 1901, 517, ch. CLXII.)

Whereas, The redwood forests of California are rapidly disappearing before the demands of commerce and the ravages of fire, and will shortly be extinct unless adequate means are taken for their perpetuation; and

Whereas, These trees are the oldest and largest in the world, and, being peculiar to California, contribute to her fame, and are naturally the subject of state pride and protection; therefore, it is enacted that

§ 1. The governor of the state of California and four other commissioners appointed by the governor shall constitute the California Redwood Park Commission, whose duty it shall be to select such land from that tract of land commonly known as the Big Basin, situate in Santa Cruz and San Mateo counties, in the state of California, upon which are growing trees of the species known as *sequoia sempervirens*, and which, in the judgment of said commission, is most suitable for a park, the purpose of which is to preserve a body of these trees from destruction, and maintain them for the honor of the state of California and for the benefit of succeeding generations. The commissioners appointed by the governor shall hold office for four years. Vacancies shall be filled by the governor.

§ 2. The sum of two hundred and fifty thousand dollars (\$250,000) is hereby appropriated out of any money in the state treasury not otherwise appropriated, which shall be subject to the control of said commission, but which shall be used solely for the purchase of land suitable for the park herein provided for; provided, that the said sum of two hundred and fifty thousand dollars shall be available only as follows: The sum of fifty thousand dollars (\$50,000) thereof on the first day of January, nineteen hundred and two; the sum of fifty thousand dollars (\$50,000) thereof on the first day of January, nineteen hundred and three; the sum of fifty thousand dollars (\$50,000) thereof on the first day of January, nineteen hundred and four; the sum of fifty thousand dollars (\$50,000) thereof on the first day of January, nineteen hundred and five; and the remaining fifty thousand dollars (\$50,000) thereof on the first day of January, nineteen hundred and six.

§ 3. The commission shall have the power to purchase such lands or any portion thereof, or it may proceed by action at law in the superior court to condemn the same or any portion thereof, in the name of the people of the state of California. The commission may also receive contributions from any source for the purchase of additional lands, and the care and maintenance of lands and forests under its charge.

§ 4. The said commissioners shall have no salary, but shall have full power and control over the said park, and over the funds provided for the purchase and maintenance of the same, and shall make and enforce all necessary rules and regulations for the care, maintenance and government of the same, and for carrying out the purposes of this act.

§ 5. No payment of any part of the said sum of two hundred and fifty thousand dollars shall be made until an abstract or abstracts of title shall have been furnished to the attorney-general of the state of California, showing that said lands and the whole thereof are free from any valid liens or encumbrances thereon; and it is hereby made the duty of said attorney-general to examine said abstract or abstracts of title, and to render and deliver to said commission his opinion in writing, certifying that no valid liens or encumbrances exist thereon, and that the title to said lands and the whole thereof is good and valid. Said opinion of the attorney-general, together with said abstract or abstracts of title, shall be filed in the office of the secretary of state.

§ 6. This act shall go into effect immediately.

See next succeeding act.

PARKS—PUBLIC.

To provide for the preservation, improvement and maintenance of the "California Redwood Park" in Santa Cruz County, and making an appropriation therefor.

(Stats. 1903, 424, ch. CCC.)

§ 1. The sum of ten thousand (10,000) dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to be paid to the president and secretary of the board of commissioners of the California Redwood Park, for the care, preservation, maintenance and improvement of said park.

§ 2. Said board of commissioners are hereby authorized and empowered to expend any part of said sum of ten thousand (10,000) dollars in the construction of roads and bridges within the boundaries of said park to connect with any road leading up to the boundaries of said park; in the construction of suitable buildings and the installation of suitable sprinkling plants; and for the care and maintenance of ample fire trails within said park; and for the employment of a warden and necessary assistants for the preservation of said park, or for any or all of said purposes.

§ 3. Said board of commissioners is hereby authorized and empowered to enter into any contracts necessary for the care, maintenance and improvement of said park or to carry out any of the provisions of this act.

§ 4. Of the sum hereby appropriated five thousand dollars shall be available on the first day of July, nineteen hundred and three, and five thousand dollars shall be available on the first day of July, nineteen hundred and four.

See tits. **Big Trees; Municipal Corporations; Yosemite.**

PAROLE COMMISSIONERS.

To establish a board of parole commissioners for the parole of and government of paroled prisoners.

(Stats. 1893, 183, ch. CLIII.)

§ 1. The state board of prison directors of this state shall have power to establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned in any state prison, and who may have served one

calendar year of the term for which he was convicted, and who has not previously been convicted of a felony and served a term in a penal institution, may be allowed to go upon parole outside of the buildings and inclosures, but to remain while on parole in the legal custody and under the control of the state board of prison directors, and subject at any time to be taken back within the inclosures of said prison; and full power to make and enforce such rules and regulations and retake and imprison any convict so upon parole is hereby conferred upon said board of directors, whose written order certified by the president of said board shall be a sufficient warrant for all officers named therein to authorize such officer to return to actual custody any conditionally released or paroled prisoner, and it is hereby made the duty of all chiefs of police, marshals of cities and villages, and sheriffs of counties, and all police, prison, and peace officers and constables to execute any such order in like manner as ordinary criminal process; provided, however, that no prisoner imprisoned under a sentence for life shall be paroled until he shall have served at least seven calendar years.

The governor of the state shall have like power to cancel and revoke the parole of any prisoner, and his written authority shall likewise be sufficient to authorize any of the officers named therein to retake and return said prisoner to the state prison, and his written order canceling or revoking the parole shall have the same force and effect and be executed in like manner as the order of the state board of prison directors. If any prisoner so paroled shall leave the state without permission from said board he shall be held as an escaped prisoner and arrested as such. [Amendment, Stats. 1901, 82.]

§ 2. This act shall take effect immediately from and after its passage.

PAUPERS.

See tit. Indigent Persons.

PEDDLERS.

See tits. License Tax—Itinerant Vendors; County Government Act § 25 subd. 25.

PENSION CLAIMANTS.

Authorizing county clerks in this state to take and certify affidavits for United States pension claimants, without the payment of fees or compensation therefor.

(Stats. 1887, 81, ch. LXXII.)

§ 1. All county clerks in this state are hereby authorized and empowered to take and certify affidavits for United States pension claimants without demanding or receiving any fees or compensation therefor.

§ 2. This act shall take effect immediately.

PERISHABLE PRODUCTS.

See tit. San Francisco Water Front.

PERSONS OF UNSOUND MIND.

See tits. Children—Feeble-Minded; Insane.

PETALUMA—CITY.

See tits. **Municipal Corporations; Petaluma Creek.**

PETALUMA CREEK.

To authorize the erection and maintenance of a drawbridge across Petaluma Creek in the city of Petaluma.

(Stats. 1875-6, 726, ch. CCCCLXXXI.)

§ 1. The trustees of the city of Petaluma are hereby authorized to erect and maintain a drawbridge across Petaluma Creek, in the city of Petaluma, at such point above D Street, in said city, as the said board may elect. Said bridge, when erected, must contain a draw or turntable, which shall, when drawn or turned, leave a space not less than forty feet for the passage of all vessels navigating said Petaluma Creek, in the deepest part thereof; provided, that in case of damage, if any, created by the erection and maintenance of said draw or turntable bridge, by flowage or otherwise, shall be paid by said city of Petaluma; and provided further, that the entire cost and expense of erecting said bridge shall be paid by private subscription or otherwise, but no part of the cost or expense of said bridge shall be paid by or become a charge against the city of Petaluma.

§ 2. The city of Petaluma must keep the said bridge, when erected, in repair and in good working condition, and must keep a tender to open such bridge for the passage of all vessels desiring to pass the same, and to close the same when such vessels have passed. Said bridge must also contain guards to the approaches at either end, so as not to endanger the safe passage of teams and other conveyances over the same when closed, and must contain walks on either side for the free passage of persons on foot. No tolls must ever be collected of the owners of vessels passing through, or of vehicles passing over said bridge.

PETROLEUM LANDS.

See tit. **Oil Lands.**

PHARMACY.

To regulate the practice of pharmacy and the sale of poisons in the state of California.

(Stats. 1901, 299, ch. CXLI.)

§ 1. From and after the passage of this act it shall be unlawful for any person to manufacture, compound, sell, or dispense any drug, poison, medicine or chemical for medicinal use, or to dispense or compound any prescription of a medical practitioner, unless such person be a registered pharmacist or a registered assistant pharmacist within the meaning of this act, except as hereinafter provided. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals for medicinal use, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory or office

for the sale, dispensing, or compounding of drugs, medicines or chemicals for medicinal use or for the dispensing of prescriptions of medical practitioners only during the temporary absence of the registered pharmacist. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine not exceeding one hundred (100) dollars, or to an imprisonment for a term not exceeding fifty (50) days, or to both such fine and imprisonment.

§ 2. Any person in order to be a registered pharmacist must be a licentiate in pharmacy, or a practising pharmacist.

§ 3. Licentiates in pharmacy are persons who have had four years' experience in stores where the prescriptions of medical practitioners are compounded, and shall have passed an examination before the state board of pharmacy, or who shall present satisfactory credentials of their attainments to the said board. Practising pharmacists are persons who, at the passage of this act, are registered pharmacists.

§ 4. Every pharmacist claiming the right of registration under this act shall, on or before the first day of July, next after its passage, forward to the board of pharmacy satisfactory proof that he was a duly registered pharmacist under the provisions of an act to regulate the practice of pharmacy or sale of poisons in the state of California, approved March eleventh, eighteen hundred and ninety-one, and engaged in the business of preparing and dispensing medicines and physicians' prescriptions at the time, or that he is otherwise entitled to registration under its provisions. The board of pharmacy shall then issue to said applicant, on his paying the sum of two (2.00) dollars, a certificate of registration. Any practising pharmacist failing to comply with the requirements of this section within sixty days from and after the first day of July, nineteen hundred and one, shall forfeit his right to registration, and shall appear for examination as provided for in this act.

§ 5. Every assistant pharmacist claiming right of registration under this act, without passing an examination by the board of pharmacy, shall, on or before the first day of July next after the passage, forward to the board of pharmacy satisfactory proof that he has had five years' experience in drug stores where physicians' prescriptions are prepared. The board of pharmacy shall then issue to said applicant, upon his paying the sum of one (1.00) dollar, a certificate of registration as assistant pharmacist. Any assistant failing to comply with the requirements of this section within sixty (60) days from and after the first day of July, nineteen hundred and one, shall forfeit his right to registration, without passing the examination provided for in this act. No registered assistant shall conduct a pharmacy, or be granted a certificate as registered pharmacist, until he has passed the examination for licentiate in pharmacy as required by this act.

§ 6. Within thirty (30) days after the passage of this act and every fourth year thereafter, the governor shall appoint seven competent pharmacists, residing in different parts of the state, to serve as a board of pharmacy. The members of this board shall, within thirty (30) days after their appointment, individually take and subscribe before the county clerk, in the county in which they individually reside, an oath faithfully and impartially to discharge the

duties prescribed by this act. They shall hold office for the term of four (4) years, and until their successors are appointed and qualified. In case of vacancy in the board of pharmacy, the governor shall fill the same by appointing a member to serve for the remainder of the term only. The office of said board shall be located in San Francisco. The board shall organize by electing a president and a secretary, the latter to be ex officio treasurer of the board. Four members of the board shall constitute a quorum. They shall meet at least quarterly, and have power to make by-laws for the proper fulfilment of their duties. The duties of the board shall be to transact all business pertaining to the legal regulations of the practice of pharmacy; to investigate all complaints respecting non-compliance with or violations of the provisions of this act, and to cause the prosecution of all persons whenever there appears to the board to be reasonable grounds for such action, and to examine and register as pharmacists or assistant pharmacists all applicants whom it shall deem qualified to be such respectively. All persons on applying for examination or registration shall pay to the secretary a fee of five (5.00) dollars for licentiate and two (2.00) dollars for assistants, and on passing the examination they shall be furnished with a certificate signed by the secretary and examiners. Every registered pharmacist who desires to continue the practice of his profession in this state shall annually, on such date as the board of pharmacy may determine, pay to the secretary of the said board a registration fee to be fixed by the board, but which shall in no case exceed the sum of two (2.00) dollars per annum, for which he shall receive a renewal of said registration. Every registered assistant pharmacist who desires to continue the practice of his profession in this state shall, annually, on such dates as the board of pharmacy may determine, pay to the secretary of said board a registration fee to be fixed by the board, but which shall in no case exceed the sum of one (1.00) dollar per annum, for which he shall receive a renewal of said registration. The board shall render an annual report of its proceedings to the governor of the state.

§ 7. It shall be the duty of the secretary to keep a book of registration open at the city of San Francisco, of which due notice shall be given through the public press, or by mail, in which book shall be entered, under the supervision of the board, the names, titles, qualifications, and places of business of all persons coming under the provisions of this act. The secretary shall give receipts for all money received by him, and disburse the same by order of the board for necessary expenses, taking proper vouchers therefor. The balance of said money, after paying the expenses of the board, he shall pay to the state treasurer, who shall keep it as a special fund to be used in carrying out the provisions of this act.

§ 8. The members of the board of pharmacy shall each be paid the sum of five (5.00) dollars per diem for every meeting of the board which they attend, and the secretary shall receive such additional compensation as the board may direct. All compensation of members, and other expenses of the board of pharmacy, shall be paid out of the examination and registration fees and fines.

§ 9. No person shall add to or remove from, or cause to be added to or removed from, any drug, chemical, or medicinal preparation any ingredient

or material for the purpose of adulteration or substitution, or which shall deteriorate the quality, commercial value, or medicinal effect, or alter the nature or composition of such article, and no person shall knowingly sell, or offer for sale, any such adulterated, altered, or substituted drug, chemical, or medicinal preparation, without informing the purchaser of the adulteration or sophistication of the article sold, or offered for sale. Every registered pharmacist shall file, or cause to be filed, all physicians' prescriptions compounded or dispensed in his pharmacy or store. They shall be preserved for two years, and he shall furnish a correct copy of any prescription under the order or request of the attending physician. Any person who shall wilfully violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to all costs of the action, and for the first offense be liable to a fine not exceeding fifty (50.00) dollars, and for each subsequent offense a fine of not less than fifty (50.00) dollars, nor more than one hundred (100.00) dollars, said fines to be paid over to the board of pharmacy. On written complaint being entered against any person or persons, charging them with specific violation of any of the provisions of this act, the board of pharmacy is hereby empowered to delegate one of its members, or other suitable person, who shall have authority to inspect drugs, chemicals, or medicines, and to make a thorough investigation of the case. He shall then report the result of his investigations, and if such report justifies such action, the board shall duly cause the prosecution of the offender as provided in this act.

§ 10. It shall be unlawful for any person to retail any poisons enumerated in schedules "A" and "B," appended to this act, without labeling the box, bottle, or paper in which said poison is contained, with the name of the article, the word "Poison," and the name and place of business of the seller. Nor shall it be lawful to sell or deliver any poison named in schedules "A" and "B," unless on inquiry it is found that the person is aware of its poisonous character, and that it is to be used for a legitimate purpose. Nor shall it be lawful to sell or deliver any poison included in schedule "A" without making, or causing to be made, an entry in a book kept for that purpose only, stating the date of sale, and the name and address of purchaser, the name and quantity of the poison sold, the purpose for which it is stated by the purchaser to be required, and the name of the dispenser, said book to always be open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poisons when prescribed by practitioners of medicine, nor to the sale of poisons if a single bottle or package does not contain more than an ordinary dose. Dealers shall affix to every bottle, box, parcel, or other inclosure of an original package containing any of the articles named in schedules "A" and "B" of this act, a suitable label, or brand, with the word "Poison," but they are hereby exempted from the registration of the sale of such articles when sold at wholesale, or to a registered pharmacist, or physician. Any person failing to comply with the requirements of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine not exceeding one hundred (100.00) dollars, or imprisonment for a term not exceeding fifty (50) days, or to both such fine and imprisonment.

§ 11. Any person who shall attempt to procure registration for himself or any other person under this act by making or causing to be made any false representations, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to all costs of the action and to a fine not exceeding one hundred (100.00) dollars, or imprisonment for a term not exceeding fifty (50) days, or to both such fine and imprisonment. Any person who shall permit the compounding or dispensing of prescriptions of medical practitioners in his store by persons not registered, except under the direct supervision of a registered pharmacist, or any person not registered who shall retail medicines or poisons, or chemicals for medicinal use, except in a pharmacy under the direct supervision of a registered pharmacist or a registered assistant pharmacist; and any person who shall fail to comply with the regulations of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to all costs of the action and to a fine not exceeding one hundred (100.00) dollars, or imprisonment for a term not exceeding fifty (50) days, or to both such fine and imprisonment. All fines under this act shall be paid one half to the state board of pharmacy and one half to the county in which the conviction is obtained. Any person convicted of violating this act a third time shall be liable, in addition to the penalty hereinbefore mentioned, to have his registration as a pharmacist or assistant pharmacist canceled. Nothing in this act shall apply to or interfere with the business of any practitioner of medicine who does not keep a pharmacy, open shop, or drug store, advertised or otherwise, for the retailing of medicine or poisons, and wherein no other prescriptions are filled for regular practitioners, nor with the exclusive wholesale business of any dealer, except that portion of section ten which relates to marking or labeling certain poisons mentioned in this act. Nor shall general dealers come under the provisions of this act, in so far as it relates to the keeping for sale of proprietary medicines in original packages. Nor shall this act apply to registered or copyrighted proprietary medicines registered in the United States patent office, nor to the manufacture of proprietary remedies or the sale of the same in original packages by persons other than pharmacists.

§ 12. Any proprietor of a pharmacy who, not being a registered pharmacist, shall, ninety days after this act takes effect, fail or neglect to place in charge of such pharmacy a registered pharmacist; or any such proprietor who shall by himself, or any other person, permit the compounding or dispensing of prescriptions, or the vending of drugs, medicines, or poisons, in his store or place of business, except by or in the presence and under the supervision of a registered pharmacist; or any person, not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy or store, or who, not being a registered pharmacist, shall retail, compound, or dispense drugs, medicines, or poisons; or any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to all costs of the action and to a fine not exceeding one hundred (100.00) dollars or imprisonment for a term not exceeding fifty (50) days, or to both such fine and imprisonment.

§ 13. All persons registered under this act shall be exempt and free from jury duty.

Schedule "A."

Arsenic, corrosive sublimate, cyanide of potassium, hydrocyanic acid, wood alcohol, strychnia, cocaine, and all other poisonous vegetable alkaloids and their salts, opium and all its preparations, except those which contain less than two grains to the ounce.

Schedule "B."

Aconite, belladonna, colchicum, conium, nux vomica, savin, cantharides, phosphorus, digitalis, and their pharmaceutical preparations, croton oil, chloral, sulphate of zinc, sugar of lead, mineral acids, carbolic acid, oxalic acid, white precipitate, red precipitate, biniodide of mercury, essential oil of almonds; and all medicines or preparations, secret or proprietary, of whatsoever kind or nature, that are intended to cause abortion or miscarriage.

§ 14. An act entitled "An act to regulate the practice of pharmacy and sale of poisons in the state of California," approved March eleventh, eighteen hundred and ninety-one, and all parts of acts in conflict with this act, are hereby repealed.

§ 15. This act shall take effect immediately.

See tit. **Paris Green; Poisons.**

The particular legislation on this subject has been: Stats. 1880, 102, ch. XCIV, relating to sale of poisons; Stats. 1891, 86, ch. LXXXV, to regulate the practice of pharmacy and sale of poisons, amended 1893, 68, ch. LVII.

The foregoing Act of 1891 repealed all laws in conflict therewith, and the present act specifically repeals the Act of 1891. But

see next following statute, which to some extent at least seems designed to supersede previous legislation.

Stats. 1880, 102; 1891, 86.—Ex parte Hong Shen, 98 Cal. 683, 33 Pac. Rep. 799.

See tit. **License Tax—Itinerant Vendors.**

As to ex-Union soldiers and marines, see tit. **County Government** § 25 subd. 25.

PHARMACY—REGULATING.

To regulate the practice of pharmacy in the state of California.

(Stats. 1905, 535, ch. CDVL.)

§ 1. From and after the passage of this act it shall be unlawful for any person to manufacture, compound, sell, or dispense any drug, poison, medicine or chemical, or to dispense or compound any prescription of a medical practitioner, unless such person be a registered pharmacist or a registered assistant pharmacist within the meaning of this act, except as hereinafter provided. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory or office for the sale, dispensing, or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions of medical practitioners only during the temporary absence of the registered pharmacist. Temporary absence within the meaning of this act shall be held to be only those unavoidable absences which may occur during a day's work, and when the registered pharmacist in charge shall be within immediate call, ready and able to assume the direct supervision of said pharmacy. No registered assistant shall conduct a pharmacy. Every store or shop where drugs, medicines or chemicals are dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded, which has

upon it or in it as a sign, the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drug store," "drugs," or any of these words, or the characteristic show bottles or globes, either colored or filled with colored liquids, shall be deemed a "pharmacy" within the meaning of this act.

§ 2. Any person in order to be a registered pharmacist must be a licentiate in pharmacy, or a practising pharmacist.

§ 3. Licentiates in pharmacy are persons who have had five years' experience in stores where the prescriptions of medical practitioners are compounded, and shall have passed an examination before the state board of pharmacy, or who shall present satisfactory evidence to the said board that they have had twenty years' actual experience in the practice of pharmacy; provided, that graduates from a reputable college of pharmacy may be registered after eighteen years of like experience. Practising pharmacists are persons who, at the passage of this act, are registered as such, and who shall have on or before the first day of January next succeeding the passage of this act paid to the board of pharmacy of this state all moneys due for renewal of registration as required by the acts of the legislature regulating the practice of pharmacy in the state of California, approved March eleventh, eighteen hundred and ninety-one, and March fifteenth, nineteen hundred and one.

§ 4. Registered assistant pharmacists are persons who at the time of the passage of this act are already registered as such, and who shall have on or before the first day of January next succeeding the passage of this act paid to the board of pharmacy of this state all moneys due for renewal of registration as required by the acts of the legislature regulating the practice of pharmacy in the state of California, approved March eleventh, eighteen hundred and ninety-one, and March fifteenth, nineteen hundred and one; provided, that no person shall be examined or registered as a licentiate, unless such person has had five years' pharmaceutical experience in a pharmacy under the supervision of a registered pharmacist; and provided further, that no person shall be examined or registered as an assistant pharmacist from and after the passage of this act; unless such person shall be not less than eighteen years of age and has not less than three years' instruction and experience in a pharmacy, under a registered pharmacist; or has been registered as an apprentice as provided in section fifteen of this act for not less than three years; and, provided further, that an applicant for registration as an assistant pharmacist must first pass a satisfactory examination before the board of pharmacy.

§ 5. The governor shall appoint seven competent registered pharmacists, residing in different parts of the state, to serve as a board of pharmacy. The members of the board shall, within thirty (30) days after their appointment, individually take and subscribe before the county clerk, in the county in which they individually reside, an oath faithfully and impartially to discharge the duties prescribed by this act. They shall hold office for the term of four (4) years, and until their successors are appointed and have qualified. In case of vacancy in the board of pharmacy, the governor shall fill the same by appointing a member to serve for the remainder of the term only. The

office of the board shall be located in San Francisco. The board shall organize by electing a president, a secretary, and a treasurer. The secretary may or may not be a member of the board as the board in its sound discretion shall determine. The secretary and treasurer shall each give a satisfactory bond running to the board of pharmacy in a sum of not less than two thousand dollars, and such greater sum as the board may from time to time require for the faithful discharge of their respective duties.

§ 6. It shall be the duty of the secretary to keep a book of registration open at the city of San Francisco, in which shall be entered under the supervision of the board, the names, titles, qualifications, and places of business of all persons coming under the provisions of this act. The secretary shall give receipts for all moneys received by him and pay the same to the treasurer of the board, taking his receipt for the same. The treasurer shall disburse the same by order of the board for necessary expenses, taking proper vouchers therefor. The balance of said money, after paying the expenses of the board, he shall pay to the state treasurer, who shall keep it in a special fund to be used in carrying out the provisions of this act. It shall be the duty of the secretary of the board to erase from the register the name of any registered pharmacist or assistant pharmacist who has died, or who in the opinion of the board has forfeited his right under the law to do business in this state. Beside the duties required by this act, it shall be the duty of the secretary to perform such other reasonable duties appertaining to his office, as may be required of him by the board of pharmacy. The secretary shall receive such compensation as may be fixed by the board of pharmacy, if he be a member of the board, then such compensation shall be in addition to his per diem as a member of said board.

§ 7. Four members of the board shall constitute a quorum. They shall meet at least quarterly.

Subdivision 1. The state board of pharmacy shall have power:

(a) To make such by-laws and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) To regulate the practice of pharmacy.

(c) To regulate the sale of poisons.

(d) To regulate the quality of all pharmaceutical preparations and medicines dispensed or sold in this state, using the United States Pharmacopœia as the standard.

(e) To investigate all complaints as to the quality and strength of all pharmaceutical preparations and medicines, and to take such action as may be necessary to prevent the sale of such as do not conform to the standard and tests prescribed in the latest edition of the United States Pharmacopœia.

(f) To employ inspectors of pharmacy, and to inspect during business hours all pharmacies, dispensaries, stores or places in which drugs, medicines and poisons are compounded, dispensed or retailed, and to cause the prosecution of all persons whenever there appears to the board to be reasonable grounds for such action.

(g) To examine and register as pharmacists and assistant pharmacists

all applicants whom it shall deem qualified to be such. All persons applying for registration, under this act, shall pay the following fees therefor to the secretary of the board of pharmacy: Applicants for registration on experience and credentials, upon being registered as such, twenty dollars; for examination as licentiate, whether the applicant is successful or not, five dollars; for assistants applying for a licentiate's certificate under section four of this act, five dollars. If registration be granted, each of such persons shall be furnished with a certificate of registration, signed by the secretary, and the members of the board.

§ 8. No member of the board shall teach pharmacy in any of its branches, unless it be as a teacher in a public capacity and in a college of pharmacy. The members of the board of pharmacy shall each be paid the sum of eight dollars per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage at the rate of five cents per mile for each mile necessarily traveled. All compensation of members and all other expenses of the board, shall be paid out of the examination and registration fees and fines.

§ 9. Every registered pharmacist, and every assistant pharmacist, who desires to retain his registration on the books of the board of pharmacy in this state, shall annually, after the expiration of the first year's registration and on or before the first day of July of each succeeding year, pay to the secretary of the board of pharmacy, a renewal fee, to be fixed by the board, which shall not exceed two dollars for registered pharmacists, and one dollar for assistant pharmacists, in return for which fee a renewal certificate of registration shall be issued. In case any person defaults in the payment of said fee, his registration may be revoked by the board of pharmacy on sixty days' notice, in writing from the secretary, unless within said time the fee is paid, together with such penalty not exceeding ten dollars, as the board may impose. Upon payment of said fee and penalty, the board must reinstate the delinquent's registration. No person having received, or who may hereafter receive a certificate of registration as a pharmacist or assistant pharmacist, shall engage in business as a pharmacist or assistant pharmacist, in any county of this state in which he shall locate, or into which he shall afterward remove, until he shall have had such certificate recorded in the office of the county clerk of such county, and it is hereby made the duty of the county clerk to record such certificate in a book to be provided and kept for that purpose, and the county clerk is authorized to charge a fee of fifty cents for the recording of such certificate—to be paid by the person offering such certificate for record. Every pharmacist or assistant pharmacist holding a certificate of registration as a pharmacist, or assistant pharmacist, and being engaged in business as a pharmacist, or assistant pharmacist, shall have such certificate recorded, as is in this section provided, within thirty days after the taking effect of this act. The record of the certificate required by this section, or a certified copy thereof, shall be evidence in all courts that the person holding it was registered as evidenced by said certificate on the date of the same. Any registered pharmacist or assistant pharmacist failing to comply with the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars

nor more than twenty-five dollars. Upon the certificate being recorded, as herein provided, it shall be the duty of the county clerk to notify the secretary of the board of pharmacy of the name of the party and the date of such record.

§ 10. Every person upon receiving a certificate of registration under this act, or who has heretofore received a certificate of registration in this state, shall keep his last receipt for reregistration conspicuously exposed in his place of business. Every registered pharmacist, and assistant pharmacist, shall within thirty days after the changing of his place of business as designated on the books of the board of pharmacy, notify the secretary of the board of his new place of business, and upon receipt of said notification, the secretary shall make the necessary change in his register.

§ 11. Every proprietor or manager of a pharmacy or drug store shall be held responsible for the quality of all drugs, chemicals and medicines sold or dispensed by him, except those sold in the original package of the manufacturer, and except those articles or preparations known as patent or proprietary medicines. Any person who shall knowingly, wilfully, or fraudulently, falsify, or adulterate or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by the Pharmacopeia of the United States, or used, or intended to be used in medical practice, or shall mix, or cause to be mixed, with any such drug or medicinal substance, any foreign or inert substance whatever, for the purpose of destroying or weakening its medicinal power and effect, or of lessening its cost, and shall wilfully, knowingly, or fraudulently sell the same, or cause it to be sold, for medicinal purposes, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, and not more than two hundred dollars, or by imprisonment for not less than fifty days and not more than two hundred days, or by both such fine and imprisonment. Every registered pharmacist shall file, or cause to be filed, all physicians' prescriptions, or a copy thereof, compounded or dispensed in his pharmacy or store. They shall be preserved for at least two years, and he shall furnish a correct copy of any prescription, only under the order or request of the physician writing the same. Any person who shall wilfully violate any of these provisions shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine not exceeding fifty dollars; and for each subsequent offense shall be liable to a fine of not less than fifty dollars and not more than one hundred dollars. The state board of pharmacy may at any time when in their judgment it appears advisable, depute one of their members, or any other competent person to investigate any suspected violation of any of the provisions of this act and if the result of such investigation seems to the board to justify such action, the board shall cause the prosecution of any person violating any of the provisions of this act.

§ 12. Any person who shall attempt to procure registration for himself or any other person under this act by making or causing to be made any false representations, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine not exceeding one hundred dollars, or by imprisonment for a term not exceeding fifty days, or by both such fine and

imprisonment. Any person who shall permit the compounding or dispensing of prescriptions of medical practitioners, or the selling of drugs and medicines, in his store or pharmacy by persons not registered, except under the direct supervision of a registered pharmacist, or any person not registered who shall retail medicines or poisons or chemicals, except in a pharmacy under the direct supervision of a registered pharmacist, or any person violating any of the provisions of this act, when no other penalty is provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine not less than twenty dollars, and not more than one hundred dollars, or by imprisonment for a term not exceeding fifty days, or by both such fine and imprisonment. All fines recovered under this act shall be paid by the magistrate receiving the same to the state board of pharmacy. Any person convicted of violating the provisions of this act a third time, shall in addition to the penalties hereinbefore mentioned have his registration as a pharmacist canceled. Nothing in this act shall apply to or interfere with any practitioner of medicine, who is duly registered as such by the state board of medical examiners of this state, with supplying his own patients, as their physician, and by them employed as such, with such remedies as he may desire, and who does not keep a pharmacy, open shop, or drug store, advertised or otherwise, for the retailing of medicines or poisons, nor does this act apply to the exclusively wholesale business of any dealer, nor do general dealers come under the provisions of this act, in and so far as it relates to the keeping for sale of proprietary medicines, in original packages. Nor does this act apply to registered or copyrighted proprietary medicines registered in the United States patent office, nor to the manufacture of proprietary remedies or the sale of the same in original packages, by persons other than pharmacists.

§ 13. Any proprietor of a pharmacy, who not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy a registered pharmacist, or any such proprietor who shall by himself, or any other person, permit the compounding or dispensing of prescriptions, or the vending of drugs, medicines, or poisons, in his store or place of business, except by or in the presence and under the direct supervision of a registered pharmacist, or any person, not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy, or store, or who, not being a registered pharmacist, retails, compounds, or dispenses drugs, medicines, or poisons, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty dollars, and not more than one hundred dollars, or by imprisonment for a term not exceeding fifty days, or to both such fine and imprisonment.

§ 14. Any member of the board of pharmacy may examine applicants orally or in writing, and issue a temporary certificate to practise pharmacy, which shall authorize such practice and be valid, not to exceed three months from its date. Only one temporary certificate shall ever be issued to the same applicant, and no temporary certificate shall be granted to any person whose application has been acted upon by the board. The member conducting such examination as herein set forth, shall be entitled to charge and receive the sum of three dollars for his services, said moneys to be paid to the secretary for the board of pharmacy.

§ 15. It shall be the duty of all registered pharmacists who take into their employment an apprentice, whose purpose is to become a pharmacist, to report to the board of pharmacy such facts regarding his schooling and preliminary qualifications as the board of pharmacy may require, for the purpose of registration as an apprentice. The board of pharmacy shall adopt a standard of qualifications regarding schooling and preliminary education for all persons desiring to be regarded as apprentices, as provided for in this section. The pharmaceutical experience of every apprentice shall, after the passage of this act, be deemed to begin on the date on which he began the study of pharmacy, and such date shall be inserted in the certificate of registration of said apprentice, provided the preliminary qualifications have been found satisfactory by the board. Sworn testimony shall be furnished the board upon which they shall determine the date as aforesaid. The date so determined and entered as aforesaid, shall be deemed to be the beginning of the applicant's pharmaceutical experience for the purposes of this act; provided, that students matriculated and attending any reputable college of pharmacy, shall be registered as apprentices, upon such fact being shown. The board of pharmacy shall keep a register for the registration of apprentices and furnish on application proper blanks for this purpose. No apprentice shall be permitted to sell drugs, or medicines, or compound prescriptions, except under the direct, immediate, and personal supervision of a registered pharmacist. No registered apprentice shall ever be left in charge of a pharmacy.

§ 16. The board of pharmacy may in its discretion issue a permit to general dealers in rural districts, in which the conditions, in their judgment, do not justify the employment of a registered pharmacist, and where the store of such general dealer is not less than five miles distant from the store of a registered pharmacist; which said permit shall authorize the person or firm named therein to sell such ordinary drugs and ordinary household remedies, and in such manner and form, as the board may from time to time specify, in said district but not elsewhere, under such regulations and restrictions as said board may from time to time adopt. The board shall charge an annual fee of twelve dollars, in advance, for such permit, and it shall be unlawful for any dealer to sell any drugs or ordinary household remedies, without complying with the requirements of this section. Whenever a registered pharmacist shall establish a pharmacy within five miles, by the shortest road, from the place of business of such general dealer, no further license shall be granted, and the license already issued shall become void; and the board shall refund to said general dealer the proper proportion of the unexpired license fee paid to the board of pharmacy.

§ 17. It shall be the duty of the board of pharmacy, by resolution, at least annually to request of the chief of police or marshal of every incorporated city in this state, a list of all drug stores, together with the names of the owners, managers, and all employees in said stores, and a brief statement of the capacity in which said persons are employed in said stores. Upon such request in writing, it shall be the duty of the chief of police or marshal of said city, to require the patrolmen under his command, upon their respective beats, to obtain such list as is in this section specified, and deliver the same

to the board of pharmacy. It shall be the duty of the owner or manager of any drug store when called upon by an officer as above set forth, or by a member of the board of pharmacy, to furnish said officer or member of the board of pharmacy with the information required. Any person refusing to furnish information, or wilfully furnishing information that is false and untrue, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten dollars and not more than twenty dollars, or by imprisonment for not less than ten days, and not more than twenty days, or by both such fine and imprisonment.

§ 18. The several penalties prescribed in this act may be recovered in any court having jurisdiction, by a civil action instituted by the board of pharmacy, in the name of the state of California, or by criminal prosecution upon complaint being made; and it shall be the duty of the district attorney of the county wherein violations of the provisions of this act occur, to conduct all such actions and prosecutions at the request of the board.

§ 19. All persons registered under this act shall be exempt and free from jury duty.

§ 20. This act shall take effect July one, nineteen hundred and five, and all laws in conflict with this act (in and so far as they conflict) are hereby repealed.

The foregoing statute does not appear to repeal in some particulars the last preceding statute of 1901.

PHYSICIANS.

See tits. Medicines; Optometry; Osteopathy; Pharmacy.

PIERS, CHUTES AND WHARVES.

See tits. Corporations; Franchises.

PIGEONS—HOMING.

See tit. Antwerp Messengers.

And see note "Shooting from traps," under tit. Animals—Cruelty to.

PILOTS—SAN DIEGO.

To establish pilots and pilot regulations for the port of San Diego.

(Stats. 1871-2, 650, ch. CCCXXXV.)

§ 1. It shall be the duty of the governor to appoint one citizen, resident of San Diego, as pilot commissioner. The president of the board of trustees and the president of the chamber of commerce of said city shall be ex officio pilot commissioners. The three persons named shall constitute a board of pilot commissioners, with the powers and duties as hereinafter provided.

§ 2. Each commissioner shall, before entering upon his official duties, take the following oath or affirmation, which shall be indorsed on his commission, and shall be signed by him and certified by the county judge of the county of San Diego: "I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of California, and that I will faithfully discharge the duties of the office of

pilot commissioner, without fear, favor, or affection, according to the best of my ability.”

§ 3. The board of pilot commissioners shall hold their offices during the pleasure of the power appointing them, not exceeding four years.

§ 4. The board of pilot commissioners shall meet at least once in each month. They shall elect one of their number president, who shall be authorized to administer oaths, and under his hand and private seal to issue subpoenas for the attendance of witnesses in all cases arising before the board under this act. A witness disobeying such subpoena shall forfeit and pay a sum not exceeding one hundred dollars, which may be sued for and recovered in a civil action, in the name of the president of the board. It shall make by-laws and rules for its own government of the pilots, not inconsistent with the laws of this state or of the United States. A majority of such board shall constitute a quorum for the transaction of business, and may meet and adjourn from time to time, according to adjournment or appointment.

§ 5. The commissioners may organize as a board at any time after their appointment and qualification. After their organization they shall proceed to examine and license, in the manner prescribed herein, not more than four pilots, for the port of San Diego; provided, that nothing in this section shall be so construed as to remove any pilot until his commission shall expire.

§ 6. No person shall be appointed a pilot unless he is an American citizen, over the age of twenty-one years, with a practical knowledge of the management of sailing vessels and steamboats, and of the tides, soundings, bearings, and distances of the several shoals, bars, rocks, points of land, lighthouse, and fog-signals of the port and harbor of San Diego.

§ 7. Every pilot receiving a license shall, before entering on the discharge of his duties, take the oath prescribed by the constitution of this state, which shall be indorsed upon his license, signed by him, and certified by the president of the board; and shall give a bond in the sum of twenty-five hundred dollars, with two sureties, to be approved by the board and recorded in the county recorder's office of San Diego County, made payable to the state of California, and conditioned that he will faithfully perform all the duties required of him as a pilot under this act, and will observe the rules and regulations and decisions of this board. The pilots shall renew their bonds whenever the board may deem it necessary and shall so order. In all cases where a pilot shall have been deprived of his license before the expiration thereof for any of the causes hereinafter specified, it shall be the duty of the president of the board, provided a majority of the board shall instruct, to place the bond of such pilot in the hands of the attorney-general of the state of California for collection. If any amount be collected thereon in such suit, it shall be paid to the board and shall constitute a fund out of which it shall be the duty of the board to provide rewards to encourage the relief of vessels and passengers in distress, and generally to encourage the pilots in the energetic performance of their duties.

§ 8. It shall be the duty of every pilot in charge of a vessel arriving in the harbor of San Diego to have the vessel safely moored in such a position as the master may direct.

§ 9. Every pilot carried to sea against his will, when a pilot-boat is in attendance to receive him, shall be entitled to receive the sum of eight dollars per day while absent, which sum may be recovered from the master or owner of the vessel so taking him away; provided, the amount herein allowed to be recovered shall in no case exceed one thousand dollars.

§ 10. Any pilot may be deprived of his license before the expiration thereof for the following causes:

First—For refusing to exhibit his license when requested to do so by the master of any vessel he may have boarded.

Second—For habitual or occasional intoxication, whether the same shall occur while in charge of a pilot-boat or at any other time.

Third—For negligently, ignorantly, or wilfully running any vessel on shore or otherwise rendering her liable to injury; provided, that any pilot deprived of his license under this subdivision shall thereafter be ineligible to a license as pilot under this act.

§ 11. Any person not being the master or owner, not holding a license as pilot, who shall pilot any vessel into or out of the harbor of San Diego shall be deemed guilty of a misdemeanor, and on conviction in any court of competent jurisdiction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding ninety days.

§ 12. All vessels, their tackle, apparel, and furniture, and the master and owners thereof, shall be jointly and severally liable for pilotage fees, to be recovered in any court of competent jurisdiction.

§ 13. When two or more pilots shall offer their services to a vessel outside of a line from Punta Lomas and the southeast end of Zuinga Shoal, the pilot first offering his services shall have the preference; and if the master of any vessel shall refuse to observe such rule of preference, and to take the pilot entitled to be preferred on board, the vessel, her appurtenances, the master and owner thereof, shall be jointly and severally liable to the pilot entitled to such preference for one half of the amount of pilotage he would have been entitled to claim had his services been accepted.

§ 14. The following shall be the rates of pilotage into or out of the harbor of San Diego: All vessels under five hundred tons, five dollars per foot draft; all vessels over five hundred tons, five dollars per foot draft and four cents per ton for each and every ton of registered measurement; all vessels engaged in the whaling or fishing trades, one dollar per foot draft. When a vessel is spoken and the services of a pilot are declined, one half of the rates shall be paid. All vessels coasting between San Diego and any port in Oregon, or in Washington and Alaska territories, and all vessels coasting between ports of this state, and all steamers from Panama connecting with the Panama Railroad, touching at said port of San Diego, bound to other coast ports, shall be exempt from all charges for pilotage unless a pilot be actually employed.

§ 15. All pilots absenting themselves from San Diego for more than thirty days shall forfeit his commission, except in case of sickness.

§ 16. This act shall take effect and be in force from and after its passage.

See next succeeding act and note.

PILOTS—SAN PEDRO—WILMINGTON.

To provide for the appointment of pilots, and defining their duties and compensation at the port of Wilmington and bay of San Pedro.

(Stats. 1889, 416, ch. CCLXVII.)

§ 1. It shall be the duty of the governor to appoint not more than two persons, residents of San Pedro, as pilots for the port of Wilmington and bay of San Pedro.

§ 2. No person shall be appointed a pilot who is not a citizen of the United States, over twenty-one years of age, with a practical knowledge of the management of sailing vessels, and of the location and distances of the several shoals, bars, rocks, points of land, lighthouses, buoys, and fog-signals of the port of Wilmington and bay of San Pedro.

§ 3. It shall be the duty of every pilot of a vessel upon arriving in the bay of San Pedro to have the vessel safely moored as the master may direct.

§ 4. Every pilot carried to sea against his will, when a pilot-boat is in attendance to receive him, shall be entitled to receive the sum of eight dollars a day while absent, which sum may be recovered from the master or the owner of the vessel taking him away; provided, the amount herein allowed to be recovered shall in no case exceed one thousand dollars.

§ 5. Any pilot may be removed by the governor and deprived of his commission before its expiration for the following causes:

First—For refusing to exhibit his commission when requested to do so by the master of any vessel he may have boarded.

Second—For intoxication, either occasional or habitual, whether the same be while in charge of a pilot-boat or at any other time.

Third—For negligently, ignorantly, or wilfully running any vessel on shore, or otherwise rendering her liable to serious injury; and any pilot who shall be deprived of his commission for causes specified in this subdivision shall, in the discretion of the governor, be declared to be ineligible for future appointment under this act.

Fourth—For being absent from the port of Wilmington and bay of San Pedro for more than thirty days, except when prevented by sickness from performing his duties.

§ 6. Any person not the master or owner, and not holding a commission as pilot, who shall pilot any vessel into or out of the harbor of Wilmington, or bay of San Pedro, shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding ninety days.

§ 7. All vessels, their tackle, apparel, and furniture, and the master and owner of such vessels, shall be jointly and severally liable for pilotage fees, to be recovered in any court of competent jurisdiction.

§ 8. When two pilots offer their services to a vessel outside of a line from Point Firmin Lighthouse and the southeast end of the twenty-six fathoms bank, the pilot first offering his services shall have the preference, and if the master of any vessel shall refuse to observe such preference, and to take the

pilot first offering his services on board as pilot, the master, the vessel, her appurtenances, and furniture shall be jointly and severally liable to the pilot entitled to the preference for one half of the pilotage fees he would have been entitled to claim had his services been accepted.

§ 9. The following shall be the rates of pilotage into and out of the bay of San Pedro, at the outer anchorage: All vessels under five hundred tons, five dollars per foot draft; all vessels over five hundred tons, ten cents per ton for each and every ton gross registered tonnage. For all vessels engaged in the whaling or fishing trade the rate of pilotage shall be one dollar per foot draft. When a vessel is spoken and the services of a pilot are declined, the pilot shall be entitled to one half pilotage rates. All vessels engaged in the coasting trade between ports of the United States on the Pacific Coast shall be exempted from all charges for pilotage, unless a pilot shall actually be employed. All vessels over five hundred tons gross register shall, when piloted into or out of the harbor of San Pedro or Wilmington over the bar, adjoining Dead Man's Island, pay pilotage rates as follows: Five dollars per foot draft, and five cents per ton for each ton gross registered tonnage.

§ 10. This act shall take effect immediately.

See **KERR'S CYC. POL. CODE** §§ 2429-24 91.

PITT RIVER—OBSTRUCTIONS.

See tit. **Fish and Game.**

PLACER CITY.

See tits. **Municipal Corporations; Placerville.**

PLACER COUNTY—RECORDS.

To legalize certain records in the office of the recorder of Placer County.

(Stats. 1863-4, 84, ch. LXXXIII.)

§ 1. Whereas, during the period of two years, commencing on the first Monday of December, A. D. one thousand eight hundred and sixty, the certificates of filing and of record of certain instruments in writing, which by law are authorized or required to be filed for record and to be recorded, and the certificates of the filing of copies of certain notices, writs of attachment, and executions, certificates of sale, and transcripts of judgments and records, which by law are authorized or required to be filed in the recorder's office of this state, and which have been filed, or filed and recorded, in the office of the recorder of Placer County during said period, are defective by reason of the said certificates being not signed by the recorder of said county, or by his lawful deputy; therefore, all of the said certificates of said filings and of records, and of said certificates of filings only, whether the same be made of record in said office or indorsed on said instruments in writing, filed and recorded as aforesaid, or upon said other copies and transcripts filed only, are hereby legalized and made effective from and after the passage of this act, for all the legal purposes for which said filings were made, as if the said certificates had been duly signed by said recorder as required by law.

§ 2. This act shall take effect and be in force from and after its passage.

PLACERVILLE—TITLES IN.

Appointing and empowering Charles F. Irwin a trustee to execute certain trusts, directing the manner of executing the same and the use of the funds arising therefrom.

(Stats. 1875-6, 328, ch. CCLI; amended 1877-8, 252, ch. CCVIII.)

Whereas, The government of the United States has, by letters patent, dated the tenth day of September, A. D. one thousand eight hundred and seventy-two, granted to the corporate authorities of the city of Placerville, in trust for the several use and benefit of the occupants of said city, certain lands in said patent described; and whereas, in consequence of the death and resignation of said officers, and the expirations of the terms of office for which they were severally elected, there no longer exists in said city any corporate authorities to execute the trusts imposed by the act of Congress, under which said patent was issued, and by the act of the legislature entitled "An act to authorize and direct the municipal authorities of the several cities and incorporate towns of this state to execute certain trusts in relation to the town lands granted to the incorporated cities and towns of this state by the act of Congress entitled 'An act for the relief of the inhabitants of cities and towns upon the public lands,' approved March second, one thousand eight hundred and sixty-seven," approved March twenty-fourth, one thousand eight hundred and sixty-eight.

§ 1. Charles F. Irwin, of El Dorado County, in this state, is hereby appointed a trustee, and as such is authorized and empowered to execute the trusts devolved upon the corporate authorities of said city by said acts, so far as to take and accept the proofs and payments for lots and parcels of land, as is required to be made by section seven of said act of March twenty-fourth, one thousand eight hundred and sixty-eight, and to execute certificates and deeds of conveyance to the parties entitled thereto, in the manner hereinafter provided.

§ 2. Every person, company, or corporation, claimant of any lot or parcel of land within the limits of said city, who, prior to the passage of this act, shall not have complied with the provisions of the said act of March twenty-fourth, one thousand eight hundred and sixty-eight, or with the provisions of an act of the legislature of this state entitled "An act to authorize the city clerk of the city of Placerville to execute certain trusts in relation to the lands granted to said city," approved March twenty-eighth, one thousand eight hundred and seventy-four, may at any time prior to the first day of June, A. D. one thousand eight hundred and seventy-eight, present to said trustee, Charles F. Irwin, an affidavit, verified in person, or by duly authorized agent or attorney, in which affidavit shall be concisely stated the facts constituting the possession or right of possession of the claimant, and showing to the best of affiant's knowledge and belief that said claimant is entitled to the possession of such lot or parcel of land as against all other persons or associations, to which affidavit shall be attached a copy of so much of the plat of said city as will fully exhibit the particular lot or parcel of land so claimed, with the abutments. And every such claimant, at the time of presenting such affidavit, shall pay to such trustee, for the uses hereinafter prescribed, such sum of money as shall be due thereon for assessment, as mentioned or required by section six of said act of March twenty-fourth, one thousand eight hundred and sixty-eight, or by any other act or acts

relating to the same subject, and said trustee shall thereupon give to such claimant a certificate, containing a description of the lot or parcel of land claimed, and setting forth the amount paid thereon by said claimant. [Amendment, Stats. 1877-8, 252.]

§ 3. At the expiration of thirty days from and after the first day of June, one thousand eight hundred and seventy-eight, any person, association, or claimant to whom a certificate shall have been issued, as provided in the preceding section, or who may heretofore have received a similar certificate from the corporate authorities or city clerk of said city, may present the same to said trustee, and if no adverse claim shall have been presented to said trustee, he shall execute and deliver to such claimant, or to his, her, or their heirs, administrators, assigns, or legal representatives, a deed of the premises described in such certificate, designating and describing the same by number of the lot and block, as shown upon the official plat or map of said city; and that all deeds heretofore executed and delivered by said city authorities, or by any de facto trustee of said trust, to any claimant or claimants, his, her, or their assigns and legal representatives, are hereby legalized, confirmed, and established, and shall be taken, deemed, and adjudged as good and sufficient conveyances, in fee-simple, of the lot or lots, land or lands therein described. [Amendment, Stats. 1877-8, 252.]

§ 4. In case of any adverse claim to any such lot or parcel of land, or conflict of boundary lines relating thereto, the party out of possession shall commence his action in a court of competent jurisdiction, within thirty days from and after said first day of June, one thousand eight hundred and seventy-eight, and shall, within said time, serve a notice of the pendency of such action upon said trustee; and said trustee shall execute and deliver a deed in accordance with the final judgment rendered in such action; provided, if no such action shall be commenced within thirty days from and after said first day of June, one thousand eight hundred and seventy-eight, a deed shall be executed and delivered by said trustee to the party in possession, who shall have made the proof and payment as hereinbefore provided. [Amendment, Stats. 1877-8, 252.]

[The amendatory act (Stats. 1877-8, 252) also contained the two following sections: "§ 4. If any person, association, or corporation claimant of any of said lands, who has not already made proof and payment for the same as required by law, shall fail, neglect, or refuse to make application to said trustee, for a deed of conveyance to the lands so claimed, and to make the proofs and payment for the same as hereinbefore provided, on or before the first day of June, one thousand eight hundred and seventy-eight, the same shall be deemed delinquent for the amount of assessments due thereon, to be determined in accordance with the provisions of said act of March twenty-fourth, A. D. one thousand eight hundred and sixty-eight. The said trustee shall proceed to offer, at public auction, in front of the court-house in said city, to the highest bidder, for gold and silver coin, all such parcels of land so delinquent, after first giving notice of the time and place of sale, by publication in a weekly newspaper published in said city, if there be one, if not then by written or printed notices, posted in three public places in said city, for a period of not less [than] twenty days. Such notice shall state the number of the lot and block, and the amount of the assessment due upon each lot so delinquent. Said trustee shall give to the purchaser at such sale a certificate of his purchase, setting forth therein the number of the lot

sold, and the number of the block in which the same is situated, the amount paid therefor, and that the same is subject to redemption as prescribed in the next section; provided, that no sale shall be made for less than the whole amount of assessments and the cost of making the sale, which costs shall be divided pro rata among the several parcels offered for sale.

“§ 5. At any time within three months after such sale, the original claimant or his successor in interest of any lot so sold, may redeem the same by paying to the purchaser, or the said trustee for the purchaser, in gold or silver coin, the amount of such purchase money, with ten per centum thereon added; but in case no redemption be made, the purchaser, his heirs, or assigns shall be entitled to demand and receive from said trustee a deed of such premises, which deed shall be absolute against the parties delinquent, and shall entitle the grantee, his heirs and assigns to a writ of assistance from the district court having jurisdiction in the premises. In case a redemption be made as herein provided, said trustee shall, from the money received of the purchaser at such sale, deduct the amount of the delinquent assessment upon any such lot, together with the cost of sale, and pay over the residue, on demand, to the redemptioner or his assigns.”]

§ 5. The deeds that may be executed under the provisions of this act shall have the same force and effect as if executed by the corporate authorities of said city, under and by virtue of the provisions of said act of March twenty-fourth, one thousand eight hundred and sixty-eight; and for the purpose of fully executing and administering said trust in accordance with the beneficial intent and meaning of the acts of Congress and of this state in relation thereto, and of supplying, revising, perfecting, or confirming any or all acts or omissions of the corporate authorities or city clerk of said city, or of the trustee hereby appointed, and of granting general relief in the premises, in accordance with sections two thousand two hundred and eighty-seven, two thousand two hundred and eighty-eight, and two thousand two hundred and eighty-nine of article six, title eight, volume two of the Civil Code, the district court of the eleventh judicial district, at any term of said court, in and for the county of El Dorado, upon the verified petition, duly filed therein, of one or more of the parties and claimants beneficially interested in said trust, shall be deemed and taken to have jurisdiction of the subject-matter, and of all the parties and claimants aforesaid, and the final judgment of said court in the premises shall be conclusive as to the parties and claimants interested, and as to all jurisdictional facts.

§ 6. The said trustee shall receive, in full compensation for all services performed by him under this act, from and including the execution and issuance in each case of a certificate and deed, or of a deed, where a certificate shall have been previously issued, the sum of two and one half dollars in United States gold coin, to be retained by him for lands and assessments, in accordance with section six of said act of March twenty-fourth, one thousand eight hundred and sixty-eight, and all acts amendatory thereof and supplementary thereto.

§ 7. The said trustee shall be entitled to the possession and custody of all the books, records, and papers having reference to said lands or claimants, had, held, or used by the late corporate authorities or city clerk of said city, and

shall make entries in said books of all his transactions as such trustee, so far as practicable, in the manner required by the corporate authorities of said city by section seven of said act of March twenty-fourth, one thousand eight hundred and sixty-eight. And when all the business herein required of said trustee shall be completed, he shall deposit the books, records, and papers aforesaid, then in his hands, in the office of the county clerk of the county of El Dorado, where they shall remain subject to the inspection of all persons, in like manner and with the same effect as other public records in said office.

§ 8. Out of the moneys collected for assessments, as provided in section two of this act, the trustee shall pay for the stationery, printing, and other necessary expenses incident to the transaction of said business; and when said business shall be completed, if any balance shall remain in his hands unexpended, he shall advertise, by one insertion in each of the newspapers published in said city, for sealed proposals for the surrender of "fire bonds" issued by and now outstanding against said city, and shall pay the same to the holder or holders thereof who shall in such proposal agree to surrender the largest amount of such indebtedness for such money.

§ 9. The act entitled "An act to authorize the city clerk of the city of Placerville to execute certain trusts in relation to the lands granted to said city," approved March twenty-eighth, one thousand eight hundred and seventy-four, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

§ 10. This act shall take effect and be in force from and after its passage.

See tit. **Municipal Corporations.**

PLACER, YUBA, AND SUTTER COUNTIES.

See tit. **Levee Districts.**

PLEDGES.

See tit. **Candidates for Office.**

PLUMBERS—PLUMBING, SANITARY.

See tit. **Health—Public.**

POISONS.

See tit. **Pharmacy.**

See **KERR'S CYC. PEN. CODE** § 347a.

POLICE COURTS—CERTAIN CITIES.

("Whitney Act.")

To provide for police courts in cities having thirty thousand and under one hundred thousand inhabitants, and to provide for officers thereof.

(Stats. 1885, 213, ch. CLXIV; amended 1891, 292, ch. CCXIV; 1893, 41, ch. XXIII; 1895, 113, ch. CXXII.)

§ 1. The judicial power of every city having thirty thousand and under one hundred thousand inhabitants, shall be vested in a police court, to be held therein by the city justices, or one of them, to be designated by the mayor, but

either of said city justices may hold such court without such designation, and it is hereby made the duty of said city justices, in addition to the duties now required of them by law, to hold said police court. [Amendment, Stats. 1891, 292.]

§ 2. The police court shall have exclusive jurisdiction of the following public offenses committed in the city:

First—Petit larceny.

Second—Assault or battery not charged to have been committed upon a public officer in the discharge of official duty, or with intent to kill.

Third—Breaches of the peace, riots, affrays, committing wilful injury to property, and all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment.

Fourth—Of proceedings respecting vagrants, lewd, or disorderly persons. [Amendment, Stats. 1891, 292.]

§ 3. Said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of an action for the collection of any license required by any ordinance of said city. [Amendment, Stats. 1891, 292.]

§ 4. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree; and in case of the sickness or inability of the city justices, either of them may call in a justice of the peace residing in the county to act in his place and stead. [Amendment, Stats. 1891, 292.]

§ 5. Each of the city justices, while acting as judge of said court, shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law, and punish persons guilty of contempt of court, and shall have power to issue warrants of arrest in case of a criminal prosecution for a violation of a city ordinance, as well as in case of a violation of the criminal law of the state; also, all subpoenas, and all other processes necessary to the full and proper exercise of his powers and jurisdiction, and in such of the cases enumerated in this section in which trial by jury is not secured by the constitution of the state, he may proceed to judgment in the first instance without a jury; but on appeal, the defendant shall be entitled to trial by jury in the superior court. [Amendment, Stats. 1891, 292.]

§ 6. The police courts in all cities having more than thirty thousand and not exceeding one hundred thousand inhabitants, shall have a clerk for each of the judges of said courts, who shall be appointed by the judge of the said court presiding in the department thereof in which the said clerk is to act, who shall hold office for the period of two years from the date of his appointment. Each of the said clerks shall receive an annual salary of one thousand five hundred dollars a year, payable monthly out of the treasury of said city, which salary shall be the full compensation for all services rendered by him. Each of the said clerks shall keep a record of the proceedings of, and issue all processes ordered by, the city justices, or either of them, or by said police court, and receive and pay into the city treasury all fines imposed by said court. They

shall also each month render to the city council an exact and detailed account, upon oath, of all fines imposed and collected, and of all fines imposed and uncollected, since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of the said justices or said court, in cases not exceeding one hundred dollars, and may administer and certify oaths. The clerks shall remain at the court-rooms of the said court during the business hours, and during such reasonable time thereafter as may be necessary for discharging their duties. Before receiving their salaries each or any month, each of them shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands belonging to the city. Any violation of this provision shall be a misdemeanor. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor, conditioned for the faithful discharge of the duties of his office. [Amendment, Stats. 1895, 113.]

§ 6½. The police court in all cities having more than thirty thousand and less than fifty thousand inhabitants shall have a prosecuting attorney, to be appointed by the district attorney of the county in which said city is situated, who shall hold office for the period of two years from the date of his appointment. He shall receive an annual salary of two thousand (2,000) dollars, payable in equal monthly instalments, out of the treasury of said city, which salary shall be in full compensation for all services rendered by him. It shall be the duty of said prosecuting attorney to attend the sessions of said court, and conduct on behalf of the people all prosecutions for public offenses of which said court has jurisdiction. He shall give a bond in the sum of three thousand dollars, with at least two sureties, to be approved by the mayor, conditioned for the faithful discharge of the duties of his office. [New section added, Stats. 1893, 41.]

§ 7. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month, and all bills for fees and costs due the officers of said court shall be reported to the city council each month. [Amendment, Stats. 1891, 292.]

§ 8. *Rooms and Dockets*—The city council shall furnish a suitable room for the holding of said court, and shall also furnish the necessary dockets and blanks. One docket shall be styled "The City Criminal Docket," in which all the criminal business shall be recorded, and each case shall be alphabetically indexed. Another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest, and each case shall be properly indexed. [Amendment, Stats. 1891, 292.]

§ 9. The police court shall be always open, except upon non-judicial days, and then for such purposes only as by law permitted or required of other courts of this state. [Amendment, Stats. 1891, 292.]

§ 10. Appeals may be taken from any judgment of said police court to the superior court of the county in which said city may be located, in the same manner in which appeals are taken from justices' courts in like cases. [Amendment, Stats. 1891, 292.]

§ 11. In all cases of imprisonment of persons convicted in said police court

of any offense committed in the city, the persons so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail; or, if required to labor, shall labor in the city. [Amendment, Stats. 1891, 292.]

§ 12. Said courts shall have a seal, to be furnished by the city. [Amendment, Stats. 1891, 292.]

§ 13. *City Cases*—The city justices shall, on the first Tuesday of each month, make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket or the city criminal docket; such report to be made upon blanks furnished by the city council, and in such form as they may require. [Amendment, Stats. 1891, 292.]

§ 14. Certified transcripts of the docket made by the clerk of the said court, under the seal of said court, shall be evidence in any court of this state of the contents of said docket; and all warrants and other process issued out of said court, and all acts done by said court, and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state. [Amendment, Stats. 1891, 292.]

§ 15. This act shall be in force and effect from and after its passage.

The amendatory Act of 1891, 292, superseded Act of 1885, 213, in each and every section.—See *In re Ambrosewif*, 109 Cal. 264, 265, 41 Pac. Rep. 1101. **Generally**—*Ex parte Henshaw*, 73 Cal. 486, 488, 15 Pac. Rep. 110; *People ex rel. Daniels vs. Henshaw*, 76 Cal. 436, 439, 18 Pac. Rep. 413; *Green vs. Superior Court*, 78 Cal. 556, 565, 21 Pac. Rep. 307, 541; *Ex parte Ah You*, 82 Cal. 339, 341, 22 Pac. Rep. 929; *People vs. Toal*, 85 Cal. 333, 334,

24 Pac. Rep. 603; *Ex parte Halsted*, 89 Cal. 471, 472, 26 Pac. Rep. 961; *People vs. Wong Wang*, 92 Cal. 277, 279, 28 Pac. Rep. 270; *In re Ambrosewif*, 109 Cal. 264, 265, 41 Pac. Rep. 1101; *Kahn vs. Sutro*, 114 Cal. 316, 334, 46 Pac. Rep. 87, 33 L. R. A. 620; *In re Mitchell*, 120 Cal. 384, 52 Pac. Rep. 799; *People vs. Burns*, 121 Cal. 529, 530, 53 Pac. Rep. 1096; *People ex rel. Richardson vs. Cobb*, 133 Cal. 74, 75, 65 Pac. Rep. 325.

POLICE COURTS—CITIES FIRST AND ONE-HALF CLASS.

To establish police courts in cities of the first and one-half class, to fix their jurisdiction and provide for officers of said courts and fix the compensation of certain officers thereof.

(Stats. 1901, 95, ch. LXXXI; amended 1903, 320, ch. CCXLII; 1903, 335, ch. CCXLVIII; 1905, 41, ch. XLVI.)

§ 1. The judicial power of every city of the first and one-half class shall be vested in a police court to be held therein by the city justices of such city, or one of them. Either one of said justices may hold such court, and there may be as many sessions of said court at the same time as there are city justices in such city, and it is hereby made the duty of said city justices, in addition to the duties now required of them by law, to hold said police court, as judges thereof.

§ 2. Said police court shall have exclusive jurisdiction of all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment, committed in the city where such police court is held; and in all such cases to try and determine the same, convict or acquit, pass and enter judgment and carry such judgment into execution as the case may require, according to law.

§ 3. The said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of all actions for the collection of any licenses required by the ordinances of said city.

§ 4. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree; and in case of sickness or inability of said justices, or either of them, either of said justices may call in any justice of the peace of the county to act in his place or stead.

§ 5. Each of the city justices, while acting as judge of said police court, shall have jurisdiction to issue warrants of arrest, search warrants, subpoenas, and all other processes necessary to the full and proper exercise of the powers and jurisdiction of said court; to punish persons guilty of contempt of said court; to try all charges of misdemeanor offenses committed within its jurisdiction, as well as all charges for violation of city ordinances, and render judgment therein, with full power to carry such judgment into execution.

§ 6. Said police court shall have a clerk for each of the judges of said court, who shall be appointed by the judge of the said court presiding in the department thereof in which the said clerk is to act, which said clerks shall hold office for the term of two years from the date of appointment. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor, conditioned for the faithful discharge of the duties of his office. Each of said clerks shall receive an annual salary of one thousand eight hundred dollars a year, payable in equal monthly instalments out of the treasury of said city, which salary shall be the full compensation for all services rendered by him. Each of the said clerks shall keep a record of the proceedings of, and issue all processes ordered by, the city justices, or either of them, or by said police court, and receive and pay into the city treasury all fines imposed by said court. They shall also render each month to the city council an exact and detailed account under oath of all fines imposed and collected, and of all fines imposed and uncollected since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of said justices or by said police court, in cases not exceeding one hundred dollars, and may administer and certify oaths. Said clerks shall remain at the court-rooms of said court during the business hours and during such reasonable times thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands, belonging to the city. Any violation of this provision shall be a misdemeanor. [Amendment, Stats. 1903, 335.]

§ 7. Said police court shall have a prosecuting attorney and two assistant prosecuting attorneys, all of whom shall be appointed by the city attorney of said city, and who shall hold office for the term of two years from the date of their appointment. Said prosecuting attorney shall receive an annual salary of twenty-one hundred dollars, which shall be paid in equal monthly instalments out of the treasury of said city, which salary shall be in full compensation for all services rendered by him. One of said assistant prosecuting attorneys shall receive an annual salary of eighteen hundred dollars and one of said assistant prosecuting attorneys shall receive an annual salary of fifteen hundred dollars, which shall be paid in equal monthly instalments out of the treasury of said city, which salary shall be in full compensation for all services rendered by

them. It shall be the duty of said prosecuting attorney and said assistant prosecuting attorneys to attend the sessions of said police court and conduct on behalf of the people all prosecutions for public offenses of which said court has jurisdiction. [Amendment, Stats. 1905, 41.]

§ 8. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month.

§ 9. The city council shall furnish suitable rooms for the holding of said police court and shall also furnish the necessary dockets, blanks, stationery, and supplies for the carrying on of the business of said courts. One docket shall be styled "The City Criminal Docket," in which all the criminal business of said court shall be recorded, and each case shall be alphabetically indexed. Another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest; and each case shall be properly indexed.

§ 10. The police court shall be always open, except upon non-judicial days, and then for such purposes only as by law permitted or required of other courts of this state.

§ 11. Appeals may be taken from any judgment of said police court to the superior court of the county in which such city may be located, in the same manner in which appeals are taken from the justices' courts in like cases.

§ 12. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city, the person so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail, or, if required to labor, shall labor in the city.

§ 13. Said courts shall have a seal, to be furnished by the city.

§ 14. The city justices shall on the first Tuesday of each month make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket, or the city criminal docket, such report to be made upon blanks furnished by the city council and in such form as they may require.

§ 15. Certified transcripts of the dockets or files of said court, certified by the clerk of said court under the seal of said court, shall be evidence in any court of this state of the contents of said docket or of said files, as the case may be; and all warrants and other process issued out of said court and all acts done by said court and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

§ 16. This act shall take effect and be in force from and after its passage.

POLICE COURTS—CITIES SECOND CLASS.

To establish police courts in cities of the second class, to fix their jurisdiction, and provide for officers of said courts, and fix the compensation of certain officers thereof.

(Stats. 1901, 576, ch. CCXXVI; amendment Stats. 1905, 634, ch. CDLXXIV.)

§ 1. The judicial power of every city of the second class shall be vested in a police court to be held therein by the city justices of such city, or one of

them. Either one of said justices may hold such court, and there may be as many sessions of said court at the same time as there are city justices in such city, and it is hereby made the duty of said city justices, in addition to the duties now required of them by law, to hold said police court, as judges thereof.

§ 2. Said police court shall have exclusive jurisdiction of all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment, committed in the city where such police court is held; and in all such cases, to try and determine the same, convict or acquit, pass and enter judgment and carry such judgment into execution as the case may require, according to law.

§ 3. The said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of all actions for the collection of any licenses required by the ordinances of said city.

§ 4. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree; and in case of the sickness or inability of said justices, or either of them, either of said justices may call in any justice of the peace of the county to act in his place or stead.

§ 5. Each of the city justices, while acting as judge of said police court, shall have jurisdiction to issue warrants of arrest, search warrants, subpœnas, and all other processes necessary to the full and proper exercise of the powers and jurisdiction of said court; to punish persons guilty of contempt of said court; to try all charges of misdemeanor offenses committed within its jurisdiction, as well as all charges for violation of city ordinances, and render judgment therein, with full power to carry such judgment into execution.

§ 6. Said police court shall have a clerk for each of the judges of said court, who shall be appointed by the judge of the said court presiding in the department thereof in which the said clerk is to act, which said clerks shall hold office for the term of two years from the date of appointment. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor of said city, conditioned for the faithful discharge of the duties of his office. Each of said clerks shall receive an annual salary of one thousand eight hundred dollars a year, payable in equal monthly installments out of the treasury of said city, which salary shall be the full compensation for all services rendered by him. Each of the said clerks shall keep a record of the proceedings of, and issue all processes ordered by, the city justices, or either of them, or by said police court, and receive and pay into the city treasury all fines imposed by said court. They shall also render each month to the city council an exact and detailed account under oath of all fines imposed and collected and of all fines imposed and uncollected since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of said justices or by said police court, in cases not exceeding one hundred dollars, and may administer and certify oaths. Said clerks shall remain at the court-rooms of said court during the business hours and during such reasonable times thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer

all moneys that have come into his hands, belonging to the city. Any violation of this provision shall be a misdemeanor.

§ 7. Said police courts shall have one prosecuting attorney and an assistant prosecuting attorney who shall each be appointed by the district attorney of the county in which the city is situated, and who shall hold office for the term of two years from the date of their appointment. Said prosecuting attorney shall receive an annual salary of two thousand (2,000) dollars and said assistant prosecuting attorney an annual salary of one thousand five hundred (1,500) dollars, which salaries shall be paid in equal monthly instalments, out of the treasury of said city, which salaries shall be in full compensation for all services rendered by them. It shall be the duty of said prosecuting attorney and said assistant prosecuting attorney to attend the sessions of said police court and conduct, on behalf of the people, all prosecutions for public offenses of which said court has jurisdiction. [Amendment, Stats. 1905, 634.]

§ 8. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month.

§ 9. The city council shall furnish suitable rooms for the holding of said police court and shall also furnish the necessary dockets, blanks, stationery, and supplies for the carrying on of the business of said courts. One docket shall be styled "The City Criminal Docket," in which all the criminal business of said court shall be recorded, and each case shall be alphabetically indexed. Another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest, and each case shall be properly indexed.

§ 10. The police court shall be always open, except upon non-judicial days, and then for such purposes only as by law permitted or required of other courts of this state.

§ 11. Appeals may be taken from any judgment of said police court to the superior court of the county in which such city may be located, in the same manner in which appeals are taken from the justices' courts in like cases.

§ 12. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city, the person so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail, or, if required to labor, shall labor in the city.

§ 13. Said courts shall have a seal, to be furnished by the city.

§ 14. The city justices shall on the first Tuesday of each month make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket or the city criminal docket, such report to be made upon blanks furnished by the city council and in such form as they may require.

§ 15. Certified transcripts of the dockets or files of said court, certified by the clerk of said court under the seal of said court, shall be evidence in any court of this state of the contents of said docket or of said files, as the case may be; and all warrants and other process issued out of said court and all acts done by said court and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

§ 16. This act shall take effect and be in force from and after the thirtieth day of March, A. D. nineteen hundred and one.

See next following act, relating to prosecuting attorneys for courts established by the foregoing act.

POLICE COURTS—PROSECUTING ATTORNEYS.

To provide for prosecuting attorneys of police courts in cities of the second class, and regulating the compensation of such officers.

(Stats. 1901, 664, ch. CCXXVI.)

§ 1. The police court in all cities of the second class shall have a prosecuting attorney, to be appointed by the district attorney of the county in which said city is situated, who shall hold office for the period of four years from the date of his appointment. He shall receive an annual salary of two thousand (2,000) dollars, payable in equal monthly instalments, out of the treasury of said city, which salary shall be in full compensation for all services rendered by him. It shall be the duty of said prosecuting attorney to attend the sessions of said court, and conduct on behalf of the people all prosecutions for public offenses of which said court has jurisdiction.

§ 2. All other acts or parts of acts in conflict herewith are hereby repealed.

§ 3. This act shall be in full force and effect from and after its passage.

POLICE—HOURS OF SERVICE.

Regulating the hours of service on regular duty by members of the police department of cities of the first class, cities and counties, cities of the first and one half class, and cities of the second class.

(Stats. 1903, 51, ch. XLVI.)

§ 1. In all cities of the first class, cities and counties, cities of the first and one half class, and cities of the second class of this state where a regular police department is maintained, patrol captains, lieutenants, sergeants, and regular officers shall be required to serve on duty not longer than eight hours in every twenty-four hours; provided, that in case of riot or other emergency, every attaché of the police department shall perform such duty and for such time as the directing authority of the department shall require.

§ 2. This act shall take effect immediately.

POLICE—INCREASE OF.

To increase the police force in the various cities, and cities and counties, and towns of the state, and to provide for the appointment of such extra police officers and for the payment of their salaries.

(Stats. 1891, 10, ch. XV.)

§ 1. The board of supervisors, board of trustees, or common council of a city, or city and county, or town of this state, of the first, second or fourth classes, are hereby authorized and empowered to increase the police force of their respective cities, and cities and counties, or towns, from time to time, as may be deemed necessary by said common council, board of trustees, or board of super-

visors; provided, that the police force in any city or city and county shall not exceed in the aggregate, at any time, one member for every five hundred inhabitants of such city or city and county; provided further, that in cities of the third class the police force shall not exceed in the aggregate, at any time, one member for every one thousand inhabitants of said cities, according to the latest census of the United States; said additional police force to be appointed by the board of police commissioners or other board or authority now by law empowered to appoint police officers in their respective cities or cities and counties, or towns.

§ 2. The salary of additional police officers hereby authorized shall be of the same amounts for each officer as is now paid by law to the other members of such police force in their respective cities, or cities and counties, or towns; and said additional police officers shall be paid at the same time and in the same manner and out of the same fund as the other members of their respective police forces are now or shall hereafter be paid.

§ 3. The terms common council, board of trustees, and board of supervisors are hereby declared to include any body or board which, under the law, is the legislative department of the government of any city, or city and county, or town.

§ 4. This act shall be in force and effect from and after its passage.

POLICE—INSURANCE.

To create a police relief, health, and life insurance and pension fund in the several counties, cities and counties, cities, and towns of the state.

(Stats. 1889, 56, ch. LXII; amended 1891, 287, ch. CCX; 1891, 469, ch. CCXLVIII; 1897, 52, ch. LVII.)

§ 1. The chairman of the board of supervisors of the county, city and county, city, or incorporated town in which there is no board of police commissioners, the treasurer of the county, city and county, or incorporated town, and the chief of police, and their successors in office, are hereby constituted a board of trustees of the police relief or pension fund of the police department, to provide for the disbursement of the same and to designate the beneficiaries thereof as hereinafter directed, which board shall be known as the "Board of Police Pension Fund Commissioners;" provided, however, that where there is in any county, city and county, city, or town, a board of police commissioners, then such body shall constitute said board of trustees of the police relief and pension fund of the police department. [Amendment, Stats. 1891, 469.]

§ 2. They shall organize as such board by choosing one of their number as chairman, and by appointing a secretary. The treasurer of the county, city and county, city, or town, shall be ex officio treasurer of said fund. Such board of trustees shall have charge of and administer said fund, and to order payments therefrom in pursuance of the provisions of this act. They shall report annually, in the month of June, to the board of supervisors, or other governing authority of the county, city and county, city, or incorporated town, the condition of the police relief and pension fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund and the amounts paid them. [Amendment, Stats. 1891, 469.]

§ 3. Whenever any person at the taking effect of this act, or thereafter shall have been duly appointed or selected and sworn, and have served for twenty years, or more, in the aggregate, as a member, in any capacity or any rank whatever, of the regularly constituted police department of any such county, city and county, city, or town which may hereafter be subject to the provisions of this act, said board may, if it see fit, order and direct that such person after becoming sixty years of age be retired from further service in such police department, and from the date of the making of such order the service of such person in such police department shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund a yearly pension equal to one half of the amount of salary attached to the rank which he may have held in said police department for the period of one year next preceding the date of such retirement. [Amendment, Stats. 1897, 52.]

§ 4. Whenever any person, while serving as a policeman in any such county, city and county, city, or town, shall become physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duty as such policeman, said board may, upon his written request, or without such request, if it deem it to be for the good of said police force, retire such person from said department, and order and direct that he shall be paid from said fund, during his lifetime, a yearly pension equal to one half of the amount of salary attached to the rank which he may have held on such police force at the date of such retirement, but on the death of such pensioner his heirs or assigns shall have no claim against or upon such police relief or pension fund; provided, that whenever such disability shall cease such pension shall cease, and such person shall be restored to active service at the same salary he received at the time of his retirement. [Amendment, Stats. 1897, 52.]

§ 5. No person shall be retired, as provided in the next preceding section, or receive any benefit from said fund, unless there shall be filed with said board certificates of his disability, which certificates shall be subscribed and sworn to by said person, and by the county, city and county, city, or town physician (if there be one), and two regularly licensed practising physicians of such county, city and county, city, or town, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid.

§ 6. Whenever any member of the police department of such county, city and county, city, or town, shall lose his life while in the performance of his duty, leaving a widow, or child or children under the age of sixteen years, then upon satisfactory proof of such facts made to it, such board shall order and direct that a yearly pension, equal to one third the amount of the salary attached to the rank which such member held in said police department at the time of his death, shall be paid to such widow during her life, or if no widow, then to the child or children, until they shall be sixteen years of age; provided, if such widow, or child or children, shall marry, then such person so marrying shall thereafter receive no further pension from such fund.

§ 7. Whenever any member of the police department of such county, city and county, city, or town shall, after ten years of service, die from natural causes, then his widow or children, or if there be no widow or children, then his mother or unmarried sisters, shall be entitled to the sum of one thousand dollars from such fund. [Amendment, Stats. 1891, 287.]

§ 8. Any person retired for disability under this act may be summoned before the board herein provided for at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of such board with reference thereto; and all members of the police force who may be retired under the provisions of this act shall report to the chief of police of the county, city and county, city, or town where so retired, on the first Mondays of April, July, October, and January of each year; and in cases of great public emergency may be assigned to and shall perform such duty as said chief of police may direct; and such persons shall have no claim against the county, city and county, city, or town, for payment for such duty so performed.

§ 9. When any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall become a non-resident of this state, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board under this act, in respect to said examination or duty, then such board shall order that such pension allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension, allowance, or benefit under this act.

§ 10. The board herein provided for shall hold quarterly meetings on the first Mondays of April, July, October, and January of each year, and upon the call of its president; it shall biennially select from its members a president and secretary; it shall issue warrants, signed by its president and secretary, to the persons entitled thereto of the amount of money ordered paid to such persons from such fund by said board, which warrant shall state for what purpose such payment is to be made; it shall keep a record of all its proceedings, which record shall be a public record; it shall, at each quarterly meeting, send to the treasurer of the county, city and county, city, or town, and to the auditor of such county, city and county, city, or town, a written or printed list of all persons entitled to payment from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The auditor shall thereupon enter a copy of said list upon a book to be kept for that purpose, and which shall be known as "The Police Relief and Pension Fund Book." When such list has been entered by the auditor, he shall transmit the same to the board of supervisors, or other governing authority of such county, city and county, city, or town, which board of authority shall order the payment of the amounts named therein out of "The Police Relief and Pension Fund." A majority of all the members of said board herein provided for shall constitute a quorum, and have power to transact business.

§ 11. The board herein provided for shall, in addition to other powers herein granted, have power,—

First—To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president, or any member of said board, may administer oaths to such witnesses.

Second—To appoint a secretary, and to provide for the payment from said

fund of all its necessary expenses including secretary hire and printing; provided, that no compensation or emolument shall be paid to any member of said board for any duty required or performed under this act.

Third—To make all needful rules and regulations for its guidance, in conformity with the provisions of this act.

§ 12. The board of supervisors, or other governing authority, of any county, city and county, city, or town, shall, for the purposes of said "Police Relief and Pension Fund" hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund, of the following moneys:—

First—Not less than five nor more than ten per centum of all moneys collected and received from licenses for the keeping of places wherein spirituous, malt, or other intoxicating liquors are sold.

Second—One half of all moneys received from taxes or from licenses upon dogs.

Third—All moneys received from fines imposed upon the members of the police force of said county, city and county, city, or town, for violation of the rules and regulations of the police department.

Fourth—All proceeds of sales of unclaimed property.

Fifth—Not less than one fourth nor more than one half of all moneys received from licenses from pawnbrokers, billiard-hall keepers, second-hand dealers, and junk stores.

Sixth—All moneys received from fines for carrying concealed weapons.

Seventh—Twenty-five per centum of all fines collected in money for violation of county, city and county, city, or town ordinances.

Eighth—All rewards given or paid to members of such police force, except such as shall be excepted by the chief of police.

Ninth—The treasurer of any county, city and county, city, or town shall retain from the pay of each member of police department the sum of two dollars per month, to be forthwith paid into said police relief and pension fund, and no other or further retention or deduction shall be made from such pay for any other fund or purpose whatever.

§ 13. Any police life and health insurance fund, or any fund provided by law, heretofore existing in any county, city and county, city, or town, for the relief or pensioning of police officers, or their life or health insurance, or for the payment of a sum of money on their death, shall be merged with, paid into, and constitute a part of the fund created under the provisions of this act; and no person who has resigned or been dismissed from said police department shall be entitled to any relief from such fund; provided, that any person, who, within one year prior to the passage of this act, has been dismissed from the police department for incompetency or inefficiency, and which incompetency or inefficiency was caused solely by sickness or disability contracted or suffered while in service as a member thereof, and who has, prior to said dismissal, served for twelve or more years as such member, shall be entitled to all the benefits of this act.

§ 14. On the last day of June of each year, or as soon thereafter as practicable, the auditor of such county, city and county, city, or town shall make a report to the board of supervisors, or other governing authority of such county,

city and county, city, or town, of all moneys paid out on account of said fund during the previous year, and of the amount then to the credit of the "Police Relief and Pension Fund," and all surplus of said fund then remaining in said fund exceeding the average amount per year paid out on account of said fund during the three years next preceeding, shall be transferred to and become a part of the general fund of every such county, city and county, city, or town, and no longer under the control of said board, or subject to its order. Payments provided for in this act shall be made quarterly, upon proper vouchers.

§ 15. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 16. This act shall take effect from and after its passage.

Stats. 1889, 56.—§ 7, Slevin vs. Police-Fund Comrs., 123 Cal. 130, 55 Pac. Rep. 785, 44 L. R. A. 114; § 13, Clarke vs. Police Life Ins. Board, 123 Cal. 24, 25, 55 Pac. Rep. 576.

Stats. 1891, 287.—Kavanagh vs. Board P. F. Comrs., 134 Cal. 50, 51, 66 Pac. Rep. 36.

Stats. 1897, 52.—Clarke vs. Police Life Ins. Board, 127 Cal. 550, 551, 59 Pac. Rep. 994.

POLICE—ON CARS, BOATS, ETC.

To provide for the appointment of policemen, with the powers of peace officers, to serve upon the premises, cars or boats of railroad and steamship companies.

(Stats. 1901, 666, ch. CCXXVIII.)

§ 1. The governor of the state of California is hereby authorized and empowered, upon the application of any railroad or steamboat company, to appoint and commission during his pleasure one or more persons designated by such company and to serve at the expense of such company, as policeman or policemen, with the powers of peace officers, and who, after being duly sworn, may act as such policeman or policemen upon the premises, cars or boats of such company. The company designating such person or persons shall be responsible civilly for any abuse of his or their authority.

§ 2. Every such policeman shall, when on duty, wear in plain view a shield bearing the words "railroad police," or "steamboat police," as the case may be, and the name of the company for which he is commissioned.

§ 3. This act shall take effect immediately.

POLICE—VACATIONS.

Authorizing and requiring boards or commissions having the management and control of paid police force to grant the members thereof yearly vacations.

(Stats. 1891, 47, ch. XLIX.)

§ 1. In every city or city and county of this state where there is a regularly organized paid police force, the board of supervisors, common council, commissions, or other body having the management and control of the same, are authorized and required once in every year to provide for granting each member thereof a leave of absence from active duty for a period of not less than ten nor more than fifteen days. Leaves of absence so granted must be arranged by said board or commission[s] so as not to interfere with the police pro-

tection of any such city or city and county, or to impair in any way the efficiency of the department; and leaves of absence granted in case of sickness or in consequence of wounds or injuries received while in the discharge of duty shall not be construed to be or become a part of the leave of absence provided for by this act. No deduction must be made from the pay of any police officer granted a leave of absence under provisions of this act.

§ 2. This act shall take effect immediately.

POLYTECHNIC SCHOOL.

See tit. California Polytechnic School.

POOR.

See tit. Indigent Persons.

POPPY.

See tit. State Flower.

POSSE COMITATUS.

To authorize boards of supervisors to pay the expenses of posse comitatus in criminal cases.

(Stats. 1880, 102, ch. XCIII.)

§ 1. The board of supervisors of any county may allow, in their discretion, such compensation as they may deem just, to defray the necessary expenses that have been incurred by a posse comitatus in criminal cases; provided, no claim shall be allowed for expenses which have not been incurred within one year before such allowance.

§ 2. This act shall take effect and be in force from and after its passage.

POST MORTEM EXAMINATIONS.

See tit. Coroners.

As to physician's charge for, see *Christie vs. Sonoma County*, 60 Cal. 164, 165.

POULTRY—EXPERIMENT STATION.

To establish a poultry experiment station in the county of Sonoma, and making an appropriation therefor.

(Stats. 1903, 143, ch. CXXXIII.)

§ 1. There is hereby established in the county of Sonoma, at or near the city of Petaluma, a poultry experiment station, to be known as the "California Poultry Experiment Station."

§ 2. The purposes of said station shall be the study of the diseases of poultry to ascertain the causes of such diseases, and to recommend treatment for the prevention and cure of the same; to ascertain the relative value of poultry foods for the production of flesh, fat, eggs, and feathers; to recommend methods of sanitation, and to conduct investigations for the purpose of securing results conducive to the promotion of the poultry interests of the

state. This act shall be liberally construed to the end that the station hereby established may at all times contribute to the technical and general knowledge of the public upon the subject of poultry husbandry.

§ 3. The said station shall be under the supervision of the director of the agricultural experiment stations of the state of California, who shall, from time to time, cause to be issued bulletins of information regarding the care of poultry.

§ 4. Within thirty days after the passage of this act the governor shall appoint three persons, two of whom shall be from the staff of professors in the agricultural department of the University of California, and one a practical poultry raiser, which said persons shall constitute a board or commission to select and secure a site of not less than five acres for such poultry experiment station. Such board shall have full power to secure such site, by lease, purchase, or donation thereof, and shall proceed to the performance of the duties herein imposed within thirty days after receiving notice of their appointment.

§ 5. All moneys appropriated for the use of the station hereby established shall be under the control of the regents of the University of California.

§ 6. The sum of five thousand dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for securing the necessary site, and for equipping and maintaining said California poultry experiment station as provided by this act. Of the amount herein appropriated, the sum of two thousand five hundred dollars shall be available during the fiscal year nineteen hundred three and nineteen hundred four, and two thousand five hundred dollars shall be available during the fiscal year nineteen hundred four and nineteen hundred five.

§ 7. The state controller is hereby authorized to draw his warrants for the sum herein appropriated in favor of the treasurer of the regents of the University of California, and the state treasurer is hereby directed to pay the same.

§ 8. This act shall take effect immediately.

PRESTON SCHOOL OF INDUSTRY.

To establish a school of industry, to provide for the maintenance and management of the same, and to make an appropriation therefor.

(Stats. 1889, 100, ch. CIII; amended 1893, 39, ch. XXII.)

§ 1. There shall be established at or within a convenient distance from Ione City, in the county of Amador, in said state, an educational institution to be designated as the Preston school of industry.

§ 2. The sum of one hundred and sixty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose of purchasing and preparing grounds for the erection of buildings thereon, for the purchase of the necessary furniture, machinery and supplies, and for the payment of the current expenses of said school.

§ 3. The general government and supervision of said school shall be vested in a board of trustees consisting of three citizens of the state of California, who shall be appointed by the governor. The members of said board shall

hold their offices for the respective terms of two, three and four years, from the first day of July, eighteen hundred and ninety-three, and until their successors shall be appointed and qualified, said respective terms to be designated in their appointments; and thereafter, upon the expiration of such terms, there shall be one of said board appointed, whose term of office shall be continued four years, and until his successor is appointed and qualified. Said trustees, before entering on the discharge of the duties of their office, shall each take an oath faithfully to discharge the same. [Amendment, Stats. 1893, 39.]

§ 4. The board shall, with all convenient dispatch, select and establish a site at some suitable place in said county for said institution, and procure the right of way for suitable drainage; said site to contain not less than one hundred acres nor more than three hundred acres of land, to have water facilities sufficient for the uses of said school, and for power in operating machinery; the land to be of a quality suitable for general farming purposes, and adapted to the cultivation of vines and fruit trees. The land so set apart by said purchase shall hereafter be used exclusively for the occupancy and purposes of said school. It shall be indicated by fixed corners and definite boundaries. A description thereof, together with the deed therefor, shall be filed with the secretary of state at his office within thirty days after the purchase of the same.

§ 5. Thereafter the board shall cause to be prepared and shall adopt plans for the grounds, buildings, and fixtures necessary for such an institution, of such form, dimensions, and style as to it shall seem best adapted to the purposes thereof. In the preparation of such plans, and in the construction of the buildings, it may employ a competent architect at a reasonable compensation.

§ 6. No member of the board or employee of the institution shall be interested in any contract or enterprise in connection with said school. [Amendment, Stats. 1893, 39.]

§ 7. This act shall be construed as the sole and exclusive act on the subject-matter contained herein, unless specially or otherwise herein provided; and none of the provisions of an act entitled "An act to regulate contracts on behalf of the state in relation to erections of buildings," approved March twenty-third, eighteen hundred and seventy-six, or any other act, unless herein specially referred to, shall apply to or govern or limit this act, or any of the powers or duties in this act conferred upon said board.

§ 8. Nothing in this act contained shall be so construed as to permit any convict or convicts, undergoing sentence in either of the state prisons of California, to associate with, or be so employed as to mingle with, any person or persons undergoing commitment in the said school.

§ 9. The said school shall be conducted on such plan as to the board may seem best calculated to carry out the intentions of this act, and its inmates shall be subject to military discipline, including daily drill. They shall be clothed in military uniform of such pattern and material as may be prescribed by the board, but under no circumstances shall such inmates be clothed in convict stripes while undergoing commitment in said school. [Amendment, Stats. 1893, 39.]

§ 10. The members of the board shall receive no compensation for their services, but shall be allowed their reasonable expenses incurred while in the discharge of their official duties. The superintendent shall receive a salary, to be fixed by the board, not to exceed three thousand dollars per annum. The military instructor shall receive a salary, to be fixed by the board, not to exceed twelve hundred dollars per annum. The secretary and commissary shall each receive a salary, to be fixed by the board, not to exceed fifteen hundred dollars per annum. The salary of no other officer or employee of the school shall exceed twelve hundred dollars per annum. The power of the board to fix the compensation of the officers and employees, as provided in section twelve of this act, shall be subject to these limitations. [Amendment, Stats. 1893, 39.]

§ 11. The board shall elect a superintendent, a military inspector, and a secretary. The superintendent and secretary shall give such bonds for the faithful performance of their duties as the board shall determine. The bond of the superintendent shall be for a sum of not less than ten thousand dollars, and that of the secretary of not less than five thousand dollars. The military instructor must be a man who is a good disciplinarian, and skilled in military tactics. He shall receive from the governor a commission, with the rank of major. He shall perform such duties and receive such salary as the board may prescribe. The board shall meet once in three months for the transaction of business. Special meetings may be called by the president when deemed necessary.

§ 12. The board shall cause to be organized and maintained a department of instruction for the inmates of said school, with a course of study corresponding, as far as practicable, with the course of study in the public schools of this state, but the course shall not be higher than the course prescribed in grammar schools. They shall adopt a system of government, embracing such laws and regulations as are necessary for the guidance of the officers and employees, for the regulation of the hours of study and labor, for the preservation of order, for the enforcement of discipline and military training, for the preservation of health, and for the industrial training of the inmates. The ultimate purpose of all such instruction, discipline, and industries shall be to qualify the inmates for honorable and profitable employment after their release from the institution, rather than to make said institution self-sustaining. The board shall also determine the number of officers and employees required, and shall prescribe their duties and fix the amount of their compensation.

§ 13. The superintendent, before entering upon the discharge of his duties, shall make and file with the board an oath that he will faithfully and impartially discharge the duties of his office. Thereupon he shall, subject to the regulations prescribed by the board, be invested with the custody of the lands, buildings, and all other property belonging to and under the control of the said institution. He shall receive for his services a salary not exceeding the sum of three thousand dollars per annum. He shall appoint, except as hereinbefore provided, all officers and employees of said institution, who shall hold office during his pleasure. He shall provide a book in which shall be registered the name, residence, occupation, and religious creed of every boy received into the school; the date of his reception, and the date and condition of his dis-

charge; the names, residence, and occupation of his parents; whether the boy was apprenticed or not, and if so apprenticed, the name, residence, and occupation of the person to whom he was apprenticed. He shall have charge of all persons committed to the institution by any magistrate or court, shall use his best efforts to employ, instruct, discipline, and reform all such persons under his charge, and shall discharge such other duties as the said board may direct, and shall at all times be subject to removal by the board for incapacity, immorality, negligence of duty, or cruelty to the inmates.

§ 14. [Repealed, Stats. 1893, 39.]

§ 15. When any boy under the age of eighteen years shall be found guilty, by a magistrate or court of competent jurisdiction, of any offense punishable by fine or by imprisonment, or by both, and who, in the opinion of such magistrate or court, would be a fit subject for commitment to the said school, it shall be lawful for the magistrate or court to suspend judgment or sentence (except when the penalty is life imprisonment or death), and to commit such boy to the said school for a period not exceeding the time when he shall attain his twenty-first birthday, unless sooner discharged by law, or as in this act provided; but no boy who is under the age of eight years, or who is of unsound mind, shall be committed to the said school. The board shall have authority to make rules reducing, as the reward for good conduct, the time for which such person or persons have been committed. It shall be the duty of all courts and magistrates committing any boy to such school to certify to the superintendent thereof the age of the person so committed as nearly as can be ascertained by testimony taken under oath before such court or magistrate, or in such manner as the court or magistrate may direct.

§ 16. Before any commitment, made by a police court, or by a justice of the peace, under this act, shall be executed, it shall be approved by a judge of the superior court of the county in which the police court or justice of the peace has jurisdiction, and his approval indorsed on the warrant of commitment. But if such sentence shall be disapproved, the police court or justice of the peace shall then impose the ordinary sentence prescribed by law.

§ 17. It shall be lawful for the board, whenever it may deem any inmate of said institution to have been so far reformed as to justify his discharge, to give him an honorable dismissal, and to cause an entry of the reasons for such dismissal to be made in the book of records prepared for that purpose. All persons thus honorably dismissed, and all those who shall have served the full term of their respective sentences, shall thereafter be released from all penalties and disabilities resulting from the offenses or crimes for which they were committed. Upon the final discharge of any inmate as in this section provided, the superintendent shall immediately certify such discharge in writing, and shall transmit the certificate to the magistrate or court by which such inmate or boy was committed. Said magistrate or court shall thereupon dismiss the accusation and the action pending against said person.

§ 18. The board shall have authority also to issue certificates of conditional dismissal and parole to any worthy boy confined in the institution, on the following conditions: It may bind such boy, by articles of indenture, to any suitable person, who will engage to educate him, and to instruct him in some

useful art or trade, or it may return him to his parents, or it may place him under the care of any reputable person who is a citizen and a resident of this state, after such person, parent, guardian, or resident citizen shall have become bound to the said board, with good and sufficient sureties, conditioned on the proper custody, care, education, and moral and industrial training of the said paroled boy. The time of such conditional release shall be made subject to good behavior and continued reformation on the part of the person thus paroled. Any boy who violates his parole, or who becomes habitually disobedient and incorrigible, may be returned to the said school to serve the unexpired term of his sentence, on complaint of his guardian and the written requisition of the superintendent of the said school, and if received from either of the state prisons may be returned to the same. Every paroled boy who properly observes and obeys the condition of his parole until the date of the expiration of his time of commitment shall be entitled to all the benefits and immunities in this act provided.

§ 19. Any boy who shall, during the time of his commitment, be found incorrigible, or who shall be an improper subject for detention in said school, may be returned to the magistrate or court by which said boy was committed; and upon written complaint of the board, attested by the superintendent and filed with the original complaint, it shall be lawful for said court or magistrate to enter judgment and pass such sentence as would have been lawful at the time when the offender was first committed to the said school, and if committed from either of the state prisons may be returned to the prison whence received to serve out his unexpired term.

§ 20. Any boy under the age of eighteen years, who is undergoing sentence in any state prison in this state (except such as are undergoing a life sentence), and who shall be deemed a fit subject for training in the said school, may, upon recommendation of the state board of prison directors, with the approval of the governor, be transferred to said school for the unexpired period of his sentence, and when honorably discharged from said school, as hereinbefore provided, shall be entitled to such benefits and immunities as are provided for the other inmates of the institution.

§ 21. Any person who knowingly permits or who aids any boy to escape from the said school, or who knowingly promotes his departure, or conceals him with the intent of enabling such escaped boy to elude pursuit, shall be guilty of a misdemeanor, and shall, upon conviction, be punished according to law. Any fugitive from said institution, or from the parties to whom he is bound out or apprenticed, may be arrested and returned to the institution by any person upon written request or order of the superintendent directed to such person.

§ 22. The board of trustees are hereby authorized and required to contract for provisions, clothing, medicines, forage, fuel, and other staple supplies of the school for any period of time not exceeding one year, and such contracts shall be limited to bona fide dealers in the several classes of articles contracted for. Contracts for such articles as the board may desire to contract for shall be given to the lowest bidder at a public letting thereof, and if the price bid is a fair and reasonable one, and not greater than the usual market value and

prices. Each bid shall be accompanied by such security as the board may require, conditioned upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a bond, with good and sufficient sureties, in such sum as the board may require, and to their satisfaction, that he will faithfully perform his contract. If the proper officer reject any article as not complying with the contract, or if a bidder fail to furnish the articles awarded to him when required, the proper officer of the school may buy other articles of the kind rejected or called for, in the open market, and deduct the price thereof over the contract price from the amount due to the bidder, or charge the same up against him. Notice of the time, place, and conditions of the letting of contracts shall be given for at least two consecutive weeks in one newspaper printed and published in the city and county of San Francisco, in one newspaper printed and published in the city of Sacramento, and in one newspaper printed and published in the county of Amador. If all bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise for such time and in such papers as they see proper for proposals, and may so continue to renew the advertisement until satisfactory contracts are made; and in the meantime the board may contract with any one whose offer is regarded just and equitable, or may purchase in the open market. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the same letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders, as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract, and who had not in the option of the board faithfully complied therewith. [Amendment, Stats. 1893, 39.]

§ 23. When the premises are ready for occupancy, the board shall certify such fact to the governor, who shall make due proclamation thereof. Thereafter, it shall be lawful for any competent magistrate or court to commit juvenile offenders to the institution, as herein provided.

§ 24. The controller of state is hereby authorized and directed, on requisition of the said board, to draw his warrant on the state treasurer in favor of said board, to pay for the necessary expenditures in the establishment and maintenance of the said school, and the state treasurer is authorized to pay the same from the appropriations provided for in this act.

§ 25. For the purpose of giving practical effect to the provisions of this act, all laws or parts of laws which conflict with the provisions hereof are, for the purposes of this act only, suspended, and hereby made inapplicable to any boy committed to and in the custody of said school.

§ 26. In all proceedings relating to commitments under this act, the fees

and compensation of the sheriff and other officers of the court shall be such as are allowed by law for like proceedings and services in criminal cases.

§ 27. This act shall be construed in conformity with the intent as well as with the express provisions hereof, and shall confer upon the board authority to do all those lawful acts, from time to time, which are necessary to promote the prosperity of the institution and the well-being and reformation of its inmates, including the organization of trade schools, the purchase and use of fixed and movable machinery, the erection of necessary buildings for machinery and other purposes, the improvement and management of a farm, orchard, and garden, the purchase of necessary supplies for the institution, and materials for manufacture, and performance of all other necessary and lawful acts, not otherwise prohibited, which may be required to comply with the purposes of this act; but nothing herein contained shall be so construed as to permit said board to incur any indebtedness or obligation in excess of the appropriations allowed by law for the establishment and maintenance of said school.

[In addition to the amendments of sections, as above indicated, the act of 1893 contained the following provisions:

“§ 7. For the purpose of preventing any inconvenience arising from the transfer of the power of superintendence and government of said school from the state board of prison directors to said board of trustees, this act shall, after the first day of July, eighteen hundred and ninety-three, confer and devolve upon said board of trustees all the powers, duties, and responsibilities conferred or devolved upon the state board of prison directors, by virtue of any act heretofore passed or that may be passed in relation to said school at the present session of the legislature, and said board of trustees shall, so far as the government and control of said school or any appropriation relating thereto is concerned, become and remain the successors of said state board of prison directors.

“§ 8. This act shall take effect and be in force from and after the first day of July, eighteen hundred and ninety-three.”]

See next following statute, and §§ 15, 16, 18—Matter of Robinson, 138 Cal. 491, 493, 71 Pac. Rep. 690. § 16—Ex parte Nichols, 110 Cal. 651, 653, 43 Pac. Rep. 9. As to commitments to this school and to Whittier State School, see tit. Whittier, and consult Matter of Robinson, above cited.

PRESTON SCHOOL OF INDUSTRY.

To prevent evil-disposed persons from coming upon the grounds of the Whittier state school, at Whittier, California, or the Preston school of industry at Ione.

(Stats. 1895, 92, ch. CII.)

§ 1. Any person who shall come upon the grounds of the Whittier state school at Whittier, or Preston school of industry at Ione, or any of the grounds adjacent thereunto where inmates are employed, and leave or deposit where inmates may have access thereunto, any guns, pistols, knives, or other deadly weapons, or any explosive of any kind whatsoever, shall be guilty of felony, and upon conviction thereof shall be punished by imprisonment in the state prison for a term not to exceed three years.

§ 2. Any person who shall come upon the grounds of the Whittier state

school at Whittier, or Preston school of industry at Ione, or any of the grounds adjacent thereto where inmates are employed, and leave or deposit where inmates may have access thereto, any whisky, cigars, cigarettes, tobacco, or any other narcotic or stimulant, or who shall furnish to any of the inmates of said school any of the above-named articles, shall be guilty of a misdemeanor.

§ 3. Any person having been previously convicted of a felony, and who has been confined in either of the state prisons of this state, who shall come upon the grounds of the Whittier state school, or Preston school of industry at Ione, or communicate, or attempt to communicate, with any of the inmates of said institution without the consent of the superintendents or other officers in charge of said schools, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in either of the state prisons of this state for not more than three years.

§ 4. Any tramp, vagrant, or person who is a known associate of thieves, who shall come upon the grounds of the Whittier state school or Preston school of industry at Ione, or grounds adjacent thereto, and communicate with any of the inmates of said schools, without the consent of the superintendents thereof, or who shall visit or communicate with any paroled pupil of said school with a view to induce him to violate the conditions of his parole, or who shall induce by threats, intimidation, or persuasion, such paroled pupil to leave the guardian under whom he has been placed by the superintendents of the Whittier state school, or Preston school of [industry at] Ione, shall be guilty of a misdemeanor.

§ 5. Any person who shall deliver, or agree to deliver, any literature, letters, or any reading matter whatsoever to any of the pupils of the Whittier state school, or Preston school of industry at Ione, without the same passing through the hands of the superintendents of said schools, or other officer designated by him for the purpose of receiving and examining such literature, letters, or reading matter, shall be guilty of a misdemeanor.

This act shall take effect immediately.

PRESTON SCHOOL OF INDUSTRY—LAND FOR.

To provide for the purchase of additional land for the Preston school of industry at Ione.

(Stats. 1897, 422, ch. CCLXIII.)

§ 1. The board of trustees of the Preston school of industry are hereby authorized to purchase from Mrs. Emma Rendell, for the state of California, that tract of land contiguous to the tract of land now used as the ranch of the Preston school of industry at Ione. Said land to be purchased being described as follows: All that certain tract or parcel of land lying and being in Ione Valley, in the county of Amador, in the state of California, and known as the Oak Grove Ranch, and bounded and described as follows: Beginning at the northwest corner of the inclosure opposite the Oak Grove House on the road between Ione City and the "Q" Ranch, which corner is six chains and forty-six links from the north side of said road measured along the western fence of said inclosure, thence running across "Mule" Creek south seventy-five degrees and fifteen minutes east (true bearing) along the northern fence of said

inclosure forty-four chains to corner of said fence, thence continuing the said course sixteen chains more, making in all sixty chains to stake marked seven, thence south fourteen degrees forty-five minutes west (true bearing), crossing two branches of the aforesaid road forty chains to a stake marked seven, thence north seventy-five degrees fifteen minutes west (true bearing), descending the bluff on the south side of "Mule" Creek bottom, sixty chains to a stake at the southeast corner of an inclosure formerly occupied by A. R. Phillips, thence north fourteen degrees forty-five minutes east (true bearing) along the fence of said inclosure crossing "Mule" Creek, and the aforesaid road forty chains to the place of beginning, containing in all two hundred and forty acres, including the aforesaid road—variation of needle fifteen degrees forty seconds; provided, a good title, free and clear of encumbrance, can be obtained; and provided further, that the purchase price shall not exceed five thousand dollars, gold coin of the United States of America.

§ 2. The sum of five thousand dollars, or such portion thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purchase mentioned in the first section of this act; and the controller is hereby authorized to draw his warrant for said amount, and the treasurer is hereby directed to pay the same.

§ 3. This act shall take effect immediately.

See **KERR'S CYC. POL. CODE** § 2153a.

PRISONS—MATRON.

Creating the office of matron of the jail or prison in and for cities and towns of the first, first and one half, second, and third classes, wherein official matrons or their duties are not now provided for by law, defining the duties and powers and fixing the term of office and compensation of, and providing for the appointment of, and the giving of official bond by, such matron.

(Stats. 1901, 573, ch. CLXXIX.)

§ 1. Public welfare and present necessity in the several cities and towns of this state of the first, first and one half, second, and third classes, requiring that in such cities and towns there should be an official matron of the city or town jail or prison therein, the office of matron of the city or town jail or prison is hereby created in and for those several cities and towns in this state of the first, first and one half, second, and third classes, and concerning which there is now no provision of law for the office of, or prescribing the duties of, matron of the jail or prison of such city or town; and the duties and powers of such matron in such cases shall be as follows: She shall have free access at all reasonable times to the immediate presence of all female prisoners in the jail or prison of which she is the official matron, including the right of personal visitation and conversation with them; and, in all cases of searching the person of female prisoners therein, such matron exclusively shall make such search; and the matron shall, by example, advice and admonition employ her best abilities at all times to secure and promote the health, welfare and reformation of all such prisoners. The term of office of such matron shall be two years from her appointment and qualification and until her successor is appointed and qualified.

§ 2. The legislative board or body of each such city or town, referred to in section one of this act, is hereby authorized and empowered to appoint, and to provide for the payment of the compensation of, a matron of the jail or prison in and for the city or town of which such board or body is the governing board or body, and to specify the conditions and fix the amount of the matron's official bond, to be approved by such board or body.

§ 3. The compensation of such matrons, hereby regulated in proportion to the duties to be discharged, shall be as follows, payable monthly: In and for such cities of the first class, seventy-five dollars per month; in and for such cities of the first and one half class and of the second class, sixty-five dollars per month; in and for such cities of the third class, fifty dollars per month.

§ 4. To further the carrying into effect of the authority herein conferred and in furtherance of the discharge of the duties of such matrons, it is hereby enacted that no officer, deputy, policeman, constable, jailer, keeper, guard or person having charge or control of the jail or prison of any such city or town, referred to in section one of this act, shall refuse the matron, duly appointed and qualified hereunder, free access at all reasonable times to the immediate presence of all female prisoners therein, including the right of visitation and conversation with them, or in such jail or prison allow the searching of the person, in the case of a female prisoner, to be made except by such matron of such jail or prison, or obstruct the performance by such matron of her official duties in such jail or prison as those duties may be specified under the authority of this act or of law.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 6. This act shall take effect immediately.

PRISONS.

See tits. **Hair Cutting; Parole Commissioners; State Prisons.**

PRIZE-FIGHTING.

An Act of 1893, 101, ch. LXXXVIII, to prohibit prize-fighting, would seem to have been carried into the Penal Code as amend-
ed Stats. 1903, 409, ch. CCLXXXIII. See KERI'S CYC. PEN. CODE § 412.

PROCESS, WRITS, ETC.

To declare valid writs, process and certificates issued by the superior courts of this state, or the clerks thereof, before such courts shall have been legally provided with seals.

(Stats. 1880, 19, ch. XXIV.)

§ 1. No writ, process, or certificate issued by any superior court, or the clerk thereof, before such court shall have been legally provided with a seal, shall be invalid, if in other respects valid, by reason of the absence of a lawful seal; but every such writ, process, or certificate, whether under the seal of one of the courts abolished on the first day of January, eighteen hundred and eighty, or under the private seal of the clerk, or under any other seal, or issued without a seal, shall have the same validity as if it had been authenti-

cated by a legally adopted seal of the court out of which or by whose clerk it was issued.

§ 2. This act shall take effect immediately.

See tit. **Counties—New.**

PROSECUTING ATTORNEY.

See tits. **Municipal Corporations, Second Class; Police Courts.**

PROSTITUTION—MARRIED WOMEN.

To prevent the placing or keeping or leaving of married women in houses of prostitution, and to punish persons therefor.

(Stats. 1891, 285, ch. CCVI.)

This statute has been carried into the Penal Code by Stats. 1905, 655, ch. CDXCVI. See **KERR'S CYC. PEN. CODE** § 269g. **As to the statute, see People vs. Bosquet,** 116 Cal. 75, 77, 47 Pac. Rep. 879.

PROSTITUTION—IMPORTATION OF WOMEN.

To prevent compulsory prostitution of women, and the importation of Chinese or Japanese women for immoral purposes, and to provide penalties therefor.

(Stats. 1893, 217, ch. CLXXXII.)

The foregoing statute, as also Stats. 1891, 285, ch. CCVI, against placing married women in houses of prostitution, have been carried into the Penal Code by statute 1905. See **KERR'S CYC. PEN. CODE** §§ 266a, 269g.

PROTECTION DISTRICTS—RECLAMATION.

To provide for the formation of protection districts in the various counties of this state, for the improvement and rectification of the channels of innavigable streams and water courses, for the prevention of the overflow thereof, by widening, deepening and straightening and otherwise improving the same, and to authorize the boards of supervisors to levy and collect assessments from the property benefited to pay the expenses of the same.

(Stats. 1895, 247, ch. CCI; amended 1897, 219, ch. CLXIII; 1903, 328, ch. CCXLV.)

§ 1. Whenever the board of supervisors of any county in this state may deem it proper to improve and rectify the channel of any innavigable stream or watercourse within the county, and to prevent the overflow of such stream by widening, deepening, or straightening its course, or by erecting levees or dikes upon its banks, the board may, upon a petition of ten property holders of the district to be affected by such improvements, pass a resolution signifying its intention to improve such innavigable stream or watercourse, describing the exterior boundaries of the district of lands to be affected or benefited by such work or improvement, and to be assessed to pay the damages, cost, and expenses thereof, the character of work or improvement contemplated, and the place where the proposed work or improvement is to be done. Such resolution shall also contain a notice, to be published, which notice shall be headed

"Notice of intention of the board of supervisors to form a protection district," and shall state the fact of the passage of such resolution, with the date thereof, and briefly, the work or improvement proposed, and the statement that it is proposed to assess all property affected or benefited by such improvement for the expenses thereof, and refer to the resolution for further particulars. Such notice to be given by the board of supervisors, and signed by its clerk.

§ 2. Such notice shall be published for a period of thirty days, in one daily newspaper published and circulated in such county, and designated by said board of supervisors; or if there is no daily newspaper so published and circulated in said county, then by four successive insertions in a weekly or semi-weekly newspaper so published, circulated, and designated.

§ 3. Any person interested, objecting to such work or improvement, or to the extent of the district of lands to be affected or benefited by such work or improvement, and to be assessed to pay the costs and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the clerk of said board of supervisors, who shall indorse thereon the date of its reception by him, and at the next regular meeting of such board of supervisors, or at an adjourned meeting, or a special meeting called for that purpose, after the expiration of said ten days, lay such objections before said board of supervisors, which shall fix a time for hearing said objection, not less than fifteen days thereafter, and direct its clerk to notify each person objecting of such day fixed for hearing, by depositing a notice thereof in the post-office at the county seat of such county, postage prepaid, addressed to such person objecting, which said notice shall be deposited in the post-office not less than ten days before the day set for hearing.

§ 4. At the time specified or to which the hearing may be adjourned, the board of supervisors shall hear the objections urged and pass upon the same. Such board may, in its discretion, sustain, in whole or in part, any or all of the objections made and filed, and may change or alter the boundaries of such district to conform to the needs of the district, and may, in their discretion, declare such protection district formed as a subdivision of such county, and shall designate such district by name as the ——— protection district of ——— county, and thereafter the board of supervisors shall be deemed to have acquired jurisdiction to purchase or receive by donation, in the name of the district, any real or personal property necessary to properly carry out the purposes of the formation of such district, under the same rules as govern the purchase of property in the name of the county; but no district shall be formed wherein a majority of the property holders within its limits protest in writing against such action.

§ 5. The board of supervisors of such county shall also have power to condemn land for the purpose of widening, deepening and straightening any innavigable stream flowing through such protection district, or forming a boundary, or any part of a boundary thereof, and for that purpose all the provisions of part three, title seven, of the Code of Civil Procedure are hereby made applicable to the exercise of the right of eminent domain for such purposes, or to any other purpose necessary to the needs of such district when

formed; provided, that nothing in this act shall be construed as interfering, conflicting or abrogating reclamation districts now established by law. Whenever such innavigable stream or watercourse forms, or the portion thereof deemed proper or necessary to be improved and rectified by widening, deepening or straightening its course, or by erecting levees or dikes upon its bank, forms the boundary line between any two or more counties in this state, the petition shall first be presented to the board of supervisors of the county in which the greatest portion of lands within the proposed district are situated, signed by at least twenty of the property holders of the district, ten (10) from each of the counties to be affected, which petition shall set forth and particularly describe the proposed boundaries of such district and the other matters required by section one of the act of which this act is amendatory, and shall pray for a district to be organized under said act; and when the board of supervisors of any one of said counties has acquired jurisdiction, as provided in section four of the act of which this act is amendatory, the board of supervisors of each of the other counties, when notified, shall proceed to improve and rectify the channel of said stream or watercourse, so as to prevent the overflow of such stream or watercourse, and in accordance with the terms of said act of which this act is amendatory. And if, after notice, given in writing by the board of supervisors of the county so first acquiring jurisdiction to the board of supervisors of said other counties, either or any county so notified shall fail for sixty days to proceed to take all necessary steps under said act for the prevention of the overflow of such stream, by widening, deepening or straightening its course, or by erecting levees or dikes upon its banks, the board of supervisors having obtained jurisdiction as above provided and giving such notice shall proceed under the terms of said act to improve and rectify the channel of such stream or watercourse, by widening, deepening, or straightening its course, or by erecting levees or dikes upon its banks, and collect by law, from the county or counties so notified, its proportion of the costs and expenses of said improvement, which shall not exceed in the case of any county one quarter of the total cost thereof; provided, said amount shall not exceed in any case for any one county the sum of twenty-five hundred dollars. Nothing herein shall authorize the alteration of the boundary lines of any county, and said boundary lines shall remain as they are at present. Thereafter all costs of every nature that may be incurred or made necessary in the keeping up or preservation of any work or improvement done under the provisions of this section shall be borne by the counties affected by such work or improvement, and the lands within said district in the proportion provided in section ten of this act. [Amendment, Stats. 1903, 328.]

§ 6. Having acquired jurisdiction, as provided in section four hereof, the board of supervisors shall cause a survey of said contemplated improvement to be made, or adopt a survey already made; and a map of the survey must be adopted by such board, and thereafter such survey and map shall be the plans to be followed in making such improvements; provided, that at any time after the adoption of such survey and map, and before any commissioners' report of the assessment of benefits and award of damages has been finally adopted and confirmed by the board of supervisors as provided for by section sixteen of this act, said board of supervisors may rescind their action in adopting such

survey and map, and may adopt others in place thereof, or, by the affirmative vote of not less than four fifths of all its members, said board may abandon its contemplated improvement and disorganize and abolish such protection district, in which case the preliminary expenses already incurred for advertising and surveying shall be a county charge. [Amendment, Stats. 1897, 219.]

§ 7. After adopting such survey, the board of supervisors shall appoint three commissioners to assess benefits and damages, to estimate the total cost of making the proposed improvements and performing such proposed work, which estimate shall include all expenses of every kind incurred or to be incurred, either directly or indirectly, in carrying out the said work and improvements. Before entering upon the discharge of their duties as such commissioners, they shall each take and subscribe to an oath to perform the duties of such commission to the best of their abilities, and shall each file, with the clerk of the board of supervisors, a bond to the state of California, in the sum of three thousand dollars, to faithfully perform the duties of his office as such commissioner, which said bond must be approved by the chairman of the board of supervisors. The board of supervisors may, at any time, remove any or all of said commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them from any cause.

§ 8. The commissioners shall have all powers necessary and proper to carry out the provisions of this act, and the act of a majority shall be the act of the board.

§ 9. All such charges and expenses shall be deemed as expenses of said work or improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereafter. All claims, as well for the land and improvements taken or damaged as for the charges and expenses, shall be paid as are other claims against the county and upon order of the board of supervisors, and the claims shall be itemized in the same manner as are other claims against the county.

§ 10. Said commissioners shall proceed to view the lands embraced within the boundaries of such protection district, and may examine witnesses under oath, to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land and damage to improvements and property affected and also the estimate amount of the costs of the proposed work or improvement and the expenses incident thereto, and having determined the same, shall proceed to assess the same to the county or counties and upon the lands embraced within the exterior boundaries of such protection district. Such assessment shall be made in the manner following, to wit: The board of supervisors shall assess to the county or counties where more than one as [is] an interested and benefited party or parties not exceeding one half of such assessment; provided, that in no case shall a county be liable for an amount in excess of one fourth thereof or for any sum greater than twenty-five hundred dollars where there are two or more counties within which said district is formed, and the remainder of such assessment may be made upon the lands within said district in proportion to the benefits to be derived from said work or improvement, so far as said com-

mission can reasonably estimate the same, including in such estimate the property of any railroad company, within said district, if such there be. [Amendment, Stats. 1903, 329.]

§ 11. Said commissioners, having made their assessment of benefits and damages, shall, with all diligence, make a written report thereof to the board of supervisors, and shall accompany their report with a plat of the district, showing the land taken or to be taken for the work or improvement; and the lands assessed, showing the relative location of each district, block, lot, or portion of lot or other piece of land, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, or other parcel or parcels of land taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in all respects. When the report and plat are approved by the board of supervisors, a copy of said plat (appropriately designated and certified by the clerk of said board as a correct copy of the plat on file in his office) shall be, by the clerk of said board, recorded in the office of the recorder of the county. Said report of the commissioner shall also contain the names of the persons owning lands taken, or to be taken, for such work or improvement; the names of the landowners who consent to give the right of way, and their written consent thereto; the names of landowners who do not consent, and the amount of damage claimed by each, and the amount of damages awarded to each by the commissioners.

§ 12. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening, deepening, or straightening of such innavigable stream, or other improvement made or work done, or assessed therefor, together with the name of the owner or claimants thereof or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to the commissioners, and the particulars of their interests, so far as the same can be ascertained, and the amount of value or damages or the amount assessed, as the case may be.

§ 13. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any piece of land or of any improvement thereon, or of any interest in such land or improvement, it shall be set down as belonging to unknown owners. Errors in the designation of the owner or owners of any land or improvement, or of the particulars of their interests, shall not affect the validity of the assessment, or of any condemnation of the property to be taken.

§ 14. The commissioners shall receive for their services such compensation as the board of supervisors may determine from time to time; provided, that the compensation shall not exceed the sum of one hundred dollars per month each, nor continue for more than six months, unless the board of supervisors shall, by order, extend such time. The compensation of the commissioners shall be considered as an expense of the work or improvement, and shall be chargeable and payable as are other expenses thereof.

§ 15. The report of such commissioners, and the plat accompanying it, shall be filed with the clerk of the board of supervisors, and thereupon the said

clerk shall give notice of such filing by publication for at least ten days, in one daily newspaper published and circulated in said county; or if there be no daily paper, by three successive insertions in a weekly or semiweekly newspaper so published and circulated. Said notice shall require all persons interested to show cause, if any they have, why such report should not be adopted and confirmed by the board of supervisors, on or before a day fixed by the clerk thereof, and stated in said notice; which day shall not be less than thirty days from the last publication thereof. Such notice shall be substantially in the following form:

Notice of filing of the report of the board of commissioners of ——— protection district.

Notice is hereby given that the board of commissioners of ——— protection district did, on the ——— day of ——— 189—, file its report of the assessment of benefits and award of damages in said protection district with the clerk of the board of supervisors of ——— county, which said report is now on file in the office of said board, in the county court-house, in the city of ———, in said county. Said report is hereby made a part hereof, and is hereby referred to for further particulars. All persons interested are hereby required to show cause, if any they have, why such report should not be adopted and confirmed by such board of supervisors.

All objections to such adoption of such report shall be in writing and signed by the person objecting, giving post-office address, and filed with the clerk of said board of supervisors on or before the ——— day of ———, 189—.

_____,
Clerk of the board of supervisors of ——— county.

§ 16. All objections shall be in writing and filed with the clerk of the board of supervisors, who shall, at the next meeting of the board (whether an adjourned meeting, a regular monthly meeting, or a special meeting called for that purpose) after the day fixed in the notice to show cause, lay the said objections, if any have been filed, before the said board, which shall, by order, fix a time for hearing the same, and direct the clerk to notify the objectors in the manner prescribed in section three hereof. At the time fixed for hearing, or at such other time as the hearing may be adjourned to, the board of supervisors shall hear such objections and pass upon the same; and at such time, or if there be no objections, at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had as in the case of an original report. When such report has been adopted and confirmed, the said board may, by order entered upon its minutes, discharge such commissioners, and their authority shall thereupon cease.

§ 17. After said report has been adopted as provided in the preceding section, the board of supervisors, if they consider the sum to be raised for the payment of the expenses of such work or improvement too great to be properly expended in one year, or too great to be raised in one year by assessments against the property of such protection district, may, by order entered upon

its minutes, provide that any part of such expenses shall be raised or expended in one year, and that such assessments shall continue for a number of years sufficient to raise by assessment, and expend, the total sum required by such report for the work or improvement. When the board has determined the sum to be assessed for each year, and the number of years that such assessments shall continue, they shall cause the clerk of the board of supervisors to forward to the tax collector of the county in which such district is situated, a certified copy of the report, assessment, and plat as adopted and confirmed by the said board of supervisors, together with a certified copy of the order of said board, fixing the sum to be raised by such assessment each year and the number of years such assessment shall continue, and from and after the filing of such certified copy the charges assessed upon each piece of land or improvement thereon for the first year shall become due and payable immediately and shall constitute a lien thereon; and thereafter the assessments for the succeeding years shall become due and payable on the first day of October of each year, and shall, upon becoming due and payable, constitute a lien upon the land or improvements upon which it is assessed. Before such sums become delinquent, the board of supervisors shall direct the county treasurer to transfer from the money then in the general fund of such county to the fund raised by such assessment, a sum of money to be named in the order, great enough to pay the assessment made against the county for that year for such work and improvements.

§ 18. All moneys paid upon such assessments, either by property owners or by the county, and moneys received from any source for the benefit of such protection district, shall be, by the county treasurer, placed in a fund to be called the ——— protection district fund; and all payments of any of the expenses of the work or improvements or other expenses of such district shall be made upon warrants drawn by the county auditor upon such fund, and paid by such treasurer.

§ 19. Upon the filing of such certified copy of such report, assessment plat, and order with the tax collector of the county, as prescribed in section eighteen hereof, the county tax collector shall give notice, by ten days' publication in a newspaper printed in the county, that the assessment list of ——— protection district has been filed in his office, with the date of such filing; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent and will be collected as are delinquent taxes. He shall note on said assessment list all assessments paid, giving receipts as in the payment of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes is paid into said treasury. All subsequent collections of assessments shall be made in the same manner above set forth, and the tax collector shall annually (after the first year), immediately after the first day of October, publish a notice containing all the statements required to be made as hereinbefore in this section set forth, and the same proceedings shall be had as upon the collection of the first assessment.

§ 20. When said assessments have become delinquent the tax collector of such county shall proceed to collect such delinquent assessments, with five

per centum added thereon, and pay the same, including the five per centum so collected, over to the county treasurer, in the same manner as state and county taxes are collected and paid over; and for the purpose of collecting such assessments and delinquent assessments all of the provisions of chapter seven, title nine, part three, of the Political Code not in conflict with any of the provisions of this act are hereby made applicable to the collection of assessments and delinquent assessments in such protection districts.

§ 21. If, at the completion of such work or improvements, there should be, from any cause, a surplus of money left in such protection district fund, the board of supervisors may ascertain the pro rata amount belonging to each person paying such assessments, and upon the filing of claims for such rebate properly itemized, shall refund such money to the parties who paid the same; and when all of such money has been refunded, shall, by order, direct the county treasurer to abolish such protection district fund.

§ 22. When sufficient money is in such protection district fund to pay for the property taken and damaged, according to the award of damages made in the report adopted by the board of supervisors, as provided in section seventeen hereof, the clerk of the board of supervisors shall notify the owner, possessor, or occupant of any land or improvement thereon to whom damages shall have been awarded, that such award has been made, and the amount thereof, and that upon such person filing a claim and tendering a conveyance of any property to be taken, such claim will be allowed and such damages paid. Such notice shall be given by depositing such notice in the post-office at the county seat of such county, postage prepaid, addressed to such owner, possessor, or occupant, if his name be known. In case the property is unoccupied, and the name of the owners is unknown, or in case such unoccupied property is set down as belonging to unknown owners for the reasons given in section fourteen hereof, such notice shall be delivered to the sheriff or to a constable, who shall serve the same by posting a copy in a conspicuous place upon the property named in said notice, and indorse a certificate of service upon the original notice, and file the same with the clerk of the board of supervisors.

§ 23. Whenever the clerk of the board of supervisors or other officer is, by this act, empowered to serve any notice by mailing, a certificate of such mailing, in conformity to the provisions of this act and filed with the records of such supervisors, shall be sufficient proof of such service.

§ 24. If any award of damages is not accepted within fifteen days after the mailing or posting of such notice, it shall be deemed as rejected by the property owner, and thereupon the board of supervisors may direct proceedings to procure the right of way to be instituted, in the name of the county, by the district attorney, under and as provided in title seven, part three, of the Code of Civil Procedure, against all non-accepting property owners; and when thereunder the right of way is procured, the work or improvement must be commenced as hereinafter provided. In such suit no informality in the proceedings of the board of supervisors, or in the proceedings of the commissioners, shall vitiate said suit, but the said order of the board of supervisors, directing the district attorney to bring suit, shall be conclusive proof of the regularity

thereof; and the said suit shall be determined by the court or jury in accordance with the rights of the respective parties as shown in court, independent of said proceedings before said board of supervisors or before said commissioners.

§ 25. If any right of way, attempted to be acquired by virtue of this act, shall be found to be defective from any cause, the board of supervisors may again institute proceedings to acquire the right of way as in this act provided, or otherwise, or may purchase the same and include the cost thereof in the expenses of such work or improvement.

§ 26. The board of supervisors shall determine the amount of work to be done in each year and the place where such work is to be done, and may let a contract for any portion of such work that they may think proper. When the work is let by contract, either as a whole work or for a portion thereof, the board shall give notice, by publication thereof, not less than ten days, in a newspaper published in such county, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposal, and how such sealed proposals shall be addressed, which, at the time and place appointed, shall be opened, and, as soon thereafter as convenient, the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any and all bids and readvertise for proposals. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said county for the use of such protection district, for double the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the board of supervisors.

§ 27. If, according to the survey and map as adopted by the board of supervisors, as provided in section seven hereof, it is necessary, in order to shorten or straighten the course of any innavigable stream, to dig canals, cut off bends, change the channel or course of such stream, or to turn the water from its present channel into a former but now dry channel, then such work shall be considered as the straightening of the channel and course of such innavigable stream, and all of the provisions of this act are hereby declared to be applicable to such work.

§ 28. If, at any time, in the opinion of the board of supervisors, the expenditure of money is absolutely necessary to the welfare of such protection district, and there is no money in the fund of such district to make such necessary expenditure, or the money in such fund is insufficient to make such necessary expenditure, then the board of supervisors may advance such money out of the general fund of the county, and the same shall be a credit to the county as a payment of the assessments against the county to that extent; or if such money advanced shall exceed the assessments against the county, then as soon as there is sufficient money in the fund of such protection district to pay the

excess, the board of supervisors shall direct the county treasurer to transfer to the general fund from the fund of such protection district, a sum great enough to balance the accounts.

§ 29. The provisions of this act shall be liberally construed to promote the objects thereof.

This act shall take effect and be in force from and after its passage.

Rudel vs. Los Angeles County, 118 Cal. 281, 285, 50 Pac. Rep. 400.

An act to protect lands not recognized as swamp-lands from overflow (Stats. 1880, 55) was held unconstitutional in not providing proper notice to owners of lands assessed, in Hutson vs. Protection Dist., 79 Cal. 90, 21 Pac. Rep. 435. The act was sub-

sequently amended (Stats. 1889, 366) with special reference to notice, publication, and hearing, and, as amended, does not seem to have ever come before the supreme court. It is assumed that the acts mentioned have been superseded by the foregoing Act of 1895, as amended.

PROTECTION DISTRICTS—DISSOLUTION.

See tit. Reclamation Districts.

PROTECTIVE ASSOCIATIONS.

See tit. Chambers of Commerce.

PUBLIC ACCOUNTANTS.

See tit. Accountancy.

PUBLIC ADMINISTRATOR—CORONER.

To provide for public administrators in certain cases.

(Stats. 1871-2, 796, ch. DL.)

§ 1. If the public administrator of any county of this state fails to qualify, or in person fails to perform the duties of his office, the coroner of such county shall be ex officio public administrator; and in case both public administrator and coroner fail to qualify or to perform the duties appertaining thereto, the supervisors shall appoint a suitable person to be public administrator; and all laws applicable to the qualification, powers, duties, and compensation of public administrator shall apply to the coroner or appointee of the supervisors as aforesaid.

§ 2. This act shall take effect and be in force from and after its passage.

It may be held that the foregoing statute is superseded by subd. 19, § 25, County Government Act (Stats. 1897). Failure to qualify creates a vacancy (Pol. Code subd. 9,

§ 996). See also **KERR'S CYC. POL. CODE** § 4066, and annotations under said §§ 996 and 4066. Also annotations under § 25, **County Government**, herein.

PUBLIC ASSEMBLAGES.

See tits. Civil Rights; Citizens.

Greenberg vs. Western Turf Assoc., 140 Cal. 357, 360, 73 Pac. Rep. 1050.
See Stats. 1893, 220.

PUBLIC BUILDINGS—ERECTION OF.

To regulate the erection of public buildings and structures.

(Stats. 1871-2, 925, ch. DCXXVIII.)

§ 1. When by any statute of this state power is given to any state or county officer or officers, or to any board of supervisors or corporation, or any board

of trustees or commissioners, or other person or persons created or appointed by authority of any such statute, to erect, or cause to be erected or constructed, any state or county or other building or structure, it shall be the duty of said officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, to advertise for plans and specifications in detail for said building or other structure, and to state in said advertisement the amount authorized by law or otherwise to be expended for the erection of said building or structure; and also the premium to be awarded to the architect whose plans and specifications for the same may be adopted.

§ 2. Whenever the plans and specifications of any architect shall be adopted, such officer or officers, board of supervisors, or corporation, or board of trustees or commissioners, or other person or persons so adopting the same, shall before any premium shall be awarded for such plans and specifications, require such architect to execute and file with such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, a good and sufficient bond, with two sufficient sureties thereto, in the penal sum of five thousand dollars, to be approved by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, as the case may be, and conditioned that within sixty days from the date of said bond he will, on presentment to him, enter into a contract containing such provisions and conditions as may be required by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons; and also conditioned that he will give such further bond to secure the faithful performance of such contract, with such sureties as may be required of him, in the event that such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, so acting under authority of law, should, within said sixty days, require said architect to enter into such contract to erect such building or structure, at the price named in said advertisement to be expended for such purpose. In case said architect whose plans and specifications are adopted should enter into such contract, it shall be the duty of such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, to employ a competent architect or superintendent to superintend the erection of such building or structure, and to see that such plans and specifications are faithfully carried out.

§ 3. All contracts entered into by such officer or officers, board of supervisors, corporation, board of trustees, commissioners, or other person or persons, in violation of the provisions of this act, shall be null and void.

§ 4. This act shall take effect and be in force from and after its passage.

Mitchell vs. Colgan, 122 Cal. 296, 297, 54 Pac. Rep. 905; *Swasey vs. County Shasta*, 141 Cal. 392-395, 74 Pac. Rep. 1031.

See next following statutes.

PUBLIC BUILDINGS—CITY OR COUNTY.

To provide for the completion of all unfinished county, city and county, town, and township buildings in the several counties, cities and counties, cities, and towns throughout the state of California.

(Stats. 1887, 95, ch. LXXXII; § 1 amended 1891, 83, ch. LXXXII; 1893, 126, ch. CXI; 1895, 165, ch. CLXI.)

§ 1. In the event that the board of supervisors of the several counties, cities, and cities and counties of the state of California shall deem it expedient to continue the construction of any unfinished county, or city and county, or town, or township building or buildings now in the process of construction, they are hereby authorized and empowered to express such judgment, by resolution or order, in such form as they may deem proper; and for the purpose of raising the money necessary to complete said building or buildings the board of supervisors of the several counties, cities, and cities and counties of the state of California are hereby authorized and empowered to levy and collect, annually, for the fiscal year commencing July first, eighteen hundred and eighty-seven, and ending June thirtieth, eighteen hundred and eighty-eight, and each and every fiscal year thereafter during the eight fiscal years next ensuing, in the same manner and at the same times as other taxes in said counties, cities and towns, and townships, and cities and counties are levied and collected, an ad valorem property tax on real and personal property within the said counties, or cities and counties, cities, towns, and townships, of ten cents on each one hundred dollars of value, as shown by the assessment rolls of said counties, cities, cities and counties, towns, and townships for the current fiscal year; provided, the moneys raised under the provisions of this act shall be expended only in the manner and for the purposes authorized by law or by the act or acts authorizing the construction of the building or buildings; and provided further, that no part of said moneys shall be used for the purchase of carpets, furniture, fixtures, or other office furnishings of the rooms or offices completed and in use at the time of the passage of this act, nor for any furniture or other office fixtures or furnishings for the rooms or offices yet to be completed, save and except such office fixtures as are usually affixed to and constitute a part of the permanent structure or arrangement of such offices or rooms; and it is further provided, that whenever, in the judgment of the board of supervisors of the several counties, cities, and cities and counties of the state of California, or of any person or persons, board, or commission having charge of any building or buildings now in the process of construction, it shall be deemed necessary for the preservation of the building or buildings, or convenient occupation thereof, or the improvement or maintenance of sanitary conditions therein, or the protection of life, to make repairs on said building or buildings, or alterations thereof not inconsistent with the accepted plan of the building or buildings, the board of supervisors, person or persons, board, or commission having legal charge of the same, shall have the power to expend in any one year on such repairs or alterations, exclusive of the cost of repairs or alterations on the roof or roofs thereof, the sum of ten thousand dollars, and no more; which sum may be expended without regard to any of the requirements of any act or acts authorizing the construction of the building or buildings, if the amount expended at any one time does not exceed the sum of one thousand dollars; but whenever an expenditure in excess of the sum of one thousand dollars should be required, it shall be made according to the provisions of the act or acts authorizing the construction of the building or buildings. [Amendment, Stats. 1895, 166.]

§ 2. All laws now in force, except in so far as they relate to the levy and collection of taxes for the completion of any county, or city and county, or

of trustees or commissioners, or other person or persons created or appointed by authority of any such statute, to erect, or cause to be erected or constructed, any state or county or other building or structure, it shall be the duty of said officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, to advertise for plans and specifications in detail for said building or other structure, and to state in said advertisement the amount authorized by law or otherwise to be expended for the erection of said building or structure; and also the premium to be awarded to the architect whose plans and specifications for the same may be adopted.

§ 2. Whenever the plans and specifications of any architect shall be adopted, such officer or officers, board of supervisors, or corporation, or board of trustees or commissioners, or other person or persons so adopting the same, shall before any premium shall be awarded for such plans and specifications, require such architect to execute and file with such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, a good and sufficient bond, with two sufficient sureties thereto, in the penal sum of five thousand dollars, to be approved by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, as the case may be, and conditioned that within sixty days from the date of said bond he will, on presentment to him, enter into a contract containing such provisions and conditions as may be required by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons; and also conditioned that he will give such further bond to secure the faithful performance of such contract, with such sureties as may be required of him, in the event that such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, so acting under authority of law, should, within said sixty days, require said architect to enter into such contract to erect such building or structure, at the price named in said advertisement to be expended for such purpose. In case said architect whose plans and specifications are adopted should enter into such contract, it shall be the duty of such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, to employ a competent architect or superintendent to superintend the erection of such building or structure, and to see that such plans and specifications are faithfully carried out.

§ 3. All contracts entered into by such officer or officers, board of supervisors, corporation, board of trustees, commissioners, or other person or persons, in violation of the provisions of this act, shall be null and void.

§ 4. This act shall take effect and be in force from and after its passage.

Mitchell vs. Colgan, 122 Cal. 296, 297, 54 Pac. Rep. 905; *Swasey vs. County Shasta*, 141 Cal. 392-395, 74 Pac. Rep. 1031.

See next following statutes.

PUBLIC BUILDINGS—CITY OR COUNTY.

To provide for the completion of all unfinished county, city and county, town, and township buildings in the several counties, cities and counties, cities, and towns throughout the state of California.

(Stats. 1887, 95, ch. LXXXII; § 1 amended 1891, 83, ch. LXXXII; 1893, 126, ch. CXI; 1895, 165, ch. CLXI.)

§ 1. In the event that the board of supervisors of the several counties, cities, and cities and counties of the state of California shall deem it expedient to continue the construction of any unfinished county, or city and county, or town, or township building or buildings now in the process of construction, they are hereby authorized and empowered to express such judgment, by resolution or order, in such form as they may deem proper; and for the purpose of raising the money necessary to complete said building or buildings the board of supervisors of the several counties, cities, and cities and counties of the state of California are hereby authorized and empowered to levy and collect, annually, for the fiscal year commencing July first, eighteen hundred and eighty-seven, and ending June thirtieth, eighteen hundred and eighty-eight, and each and every fiscal year thereafter during the eight fiscal years next ensuing, in the same manner and at the same times as other taxes in said counties, cities and towns, and townships, and cities and counties are levied and collected, an ad valorem property tax on real and personal property within the said counties, or cities and counties, cities, towns, and townships, of ten cents on each one hundred dollars of value, as shown by the assessment rolls of said counties, cities, cities and counties, towns, and townships for the current fiscal year; provided, the moneys raised under the provisions of this act shall be expended only in the manner and for the purposes authorized by law or by the act or acts authorizing the construction of the building or buildings; and provided further, that no part of said moneys shall be used for the purchase of carpets, furniture, fixtures, or other office furnishings of the rooms or offices completed and in use at the time of the passage of this act, nor for any furniture or other office fixtures or furnishings for the rooms or offices yet to be completed, save and except such office fixtures as are usually affixed to and constitute a part of the permanent structure or arrangement of such offices or rooms; and it is further provided, that whenever, in the judgment of the board of supervisors of the several counties, cities, and cities and counties of the state of California, or of any person or persons, board, or commission having charge of any building or buildings now in the process of construction, it shall be deemed necessary for the preservation of the building or buildings, or convenient occupation thereof, or the improvement or maintenance of sanitary conditions therein, or the protection of life, to make repairs on said building or buildings, or alterations thereof not inconsistent with the accepted plan of the building or buildings, the board of supervisors, person or persons, board, or commission having legal charge of the same, shall have the power to expend in any one year on such repairs or alterations, exclusive of the cost of repairs or alterations on the roof or roofs thereof, the sum of ten thousand dollars, and no more; which sum may be expended without regard to any of the requirements of any act or acts authorizing the construction of the building or buildings, if the amount expended at any one time does not exceed the sum of one thousand dollars; but whenever an expenditure in excess of the sum of one thousand dollars should be required, it shall be made according to the provisions of the act or acts authorizing the construction of the building or buildings. [Amendment, Stats. 1895, 166.]

§ 2. All laws now in force, except in so far as they relate to the levy and collection of taxes for the completion of any county, or city and county, or

city, or towns, or townships building or buildings, are hereby continued in full force and effect.

Laver vs. Ellert, 110 Cal. 221, 222, 42 Pac. Rep. 806.

See next following statute as to alteration of plans.

PUBLIC BUILDINGS—CITY OR COUNTY.

Concerning the completion of unfinished public buildings in any county, city, city and county, or town in this state, and permitting alterations of the original plans or designs for the construction thereof.

(Stats. 1895, 166, ch. CLXII.)

§ 1. Where there are any unfinished public building or buildings now in process of construction in any county, city, city and county, or town in this state, the board of supervisors or other governing body of any county, city, city and county, or town, or any commission created by an act of the legislature, having in charge the construction of such unfinished building, shall have the right in the construction thereof to omit from the original or adopted plan therefor such part or parts as in their judgment they shall deem necessary to be left out; provided, no contract has been let for the construction of such part or parts. If, in the judgment of such officers, the public good requires, they may let contracts according to law for the construction, in whole or in part, of the unfinished portions of such public building or buildings in accordance with such altered plan. When the same shall have been constructed in accordance with such altered plan, the building shall be deemed to have been completed.

§ 2. Whenever, during the construction of such public building or buildings, changes in the original plans or designs have heretofore been made, and contracts for the construction of the work, in whole or in part, in accordance with the altered plans or designs, have been entered into by the board of supervisors, or other governing body of any county, city, city and county, or town, or by the commission having the construction thereof in charge, the said alteration of the original plans or designs that have been made and contracts for same that have been entered into, are hereby ratified, approved, and confirmed.

§ 3. This act shall take effect from and after its passage.

See *tit.* County Government; Municipal Corporations; Public Works.

PUBLIC BUILDINGS—STATE.

To regulate contracts on behalf of the state, in relation to erections and buildings.

(Stats. 1875-6, 427, ch. CCCXXV; amended 1891, 457, ch. CCXLII; 1895, 237, ch. CXCI; 1905, 416, ch. CCCLII.)

§ 1. That in all cases where the commissioners, directors, trustees, or other officer or officers, to whom is confided by law the duty of devising and superintending the erection, alteration, addition to, or improvement of any state institution, asylum, or other improvement, erected, or now being erected, or to be erected, by the state, such commissioners, directors, trustees, or other officer or

officers, before entering into any contract for the erection, alteration, addition to, or improvement of such institution, asylum, or other improvement, or for the supply of materials therefor, the aggregate cost of which erection, alteration, addition, or improvement, and materials therefor, exceed the sum of three thousand dollars, shall make, or procure to be made, a full, complete, and accurate plan or plans of such institution, asylum or other improvement, or of any addition to, or alteration or improvement thereof, in all its parts, showing all the necessary details of the work, together with working plans suitable for the use of the mechanics or other builders during the construction thereof, so drawn and represented as to be plain and easily understood; and also accurate bills, showing the exact amount of all the different kinds of materials necessary in the erection thereof, addition thereto, or in the alteration or improvement thereof, to accompany said plan or plans; and also full and complete specifications of the work to be done, showing the manner and style in which the same will be required to be done, giving such directions for the same as will enable any competent mechanic or other builder to carry them out, and afford the bidders all needful information to enable them to understand what will be required in the erection, addition to, alteration, or improvement of such institution, asylum, or other improvement; and to make, or cause to be made, a full, accurate, and complete estimate of each item of expense, and the entire aggregate cost of such institution, asylum, or other improvement, or of any addition to, alteration or improvement thereof, when completed.

§ 2. That such plans, drawings, representations, bills or materials, and specifications of work, and estimates of the cost thereof, in detail and in the aggregate, as are required in the first section of this act to be made, shall be, when made, submitted to the governor, state treasurer, and secretary of state, for their approval, and if approved by them, a copy thereof shall be deposited and safely kept in the office of controller of state.

§ 3. That after such plans, descriptions, bills of materials, and specifications and estimates as are in this act required are made and approved, in accordance with the requirements of this act, it shall be and is hereby made the duty of such commissioners, directors, trustees, or other officer or officers to whom the duty of devising and superintending the erection, addition to, alteration, or improvement of such institution, asylum, or other improvement as in this act provided to give or cause to be given public notice of the time and place when and where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of such institution, asylum, or other improvement, or for the adding to, altering, or improvement thereof, and a contract or contracts based on such sealed proposals will be made, which notice will be published weekly for four consecutive weeks next preceding the day named for the making of such contract or contracts, in three papers specially representing the building trades, and having the largest circulation and published each in the cities of San Francisco, Los Angeles, and Sacramento; also in a newspaper having a general circulation in the county where the work is to be let, and shall state when and where such plan or plans, descriptions, bills, and specifications can be seen, and which shall be open to public inspection at all business hours between the date of such notice and the making of such contract or contracts; provided, however, that the rates of said advertisements shall not

exceed the regular advertising rates for similar matter, whether public or private, in such paper or papers.

The aforesaid notice must state that separate bids will be received and separate contracts let for the performance of each of the following parts of said erection, addition, alteration, or improvement, including the furnishing of materials and labor necessary therefor, viz.: First, for the masonry work, including all brick, stone, terra cotta, and concrete work, and all necessary excavations and filling; second, for the iron work; third, for the carpenter, plastering, electric, and glazing work; fourth, for the plumbing and gas-fitting work; fifth, for the heating work; sixth, for the tinning, galvanized iron, and slating work; and seventh, for the painting and graining work; and there shall be in all such cases as many separate contracts let therefor as there are different kinds of work, according to the foregoing classification, whether the same be let by the state board of harbor commissioners or any other of the aforesaid commissioners, directors, trustees, or other officer or officers. [Amendment, Stats. 1905, 416.]

§ 4. That on the day named in said public notice, said commissioners, directors, trustees, or officer or officers, as aforesaid, shall proceed to publicly open said sealed proposals, and shall award such contract or contracts for doing the work and furnishing materials for the same to the lowest bidder, giving responsible bonds; provided always, that no proposals shall be considered unless accompanied with a bond of said proposer, equal to ten per centum of his proposal, with sufficient sureties, conditioned that if said proposal shall be accepted the party proposing will duly enter into a proper contract, and faithfully perform his or their contract or contracts, in accordance with said proposal, and the plan or plans, specifications, and descriptions, which shall be and are hereby made a part of such contract or contracts; and provided further, that such contract or contracts shall not be binding on the state until they are submitted to the attorney-general, and by him found to be in accordance with the provisions of this act, and his certificate thereon to that effect made; and provided further, that if in the opinion of such commissioners, directors, trustees, or other officer or officers, the acceptance of the lowest bid or bids shall not be for the best interest of the state, it may be lawful for them, with the written advice and consent of the governor, state treasurer, and secretary of state, to accept such proposal or proposals opened, as in their opinion may be better for the interests of the state, or reject all proposals and advertise for others in the manner aforesaid. All contracts shall provide that such commissioners, directors, trustees, or other officer or officers may, as hereinafter provided, and on the conditions stated, make any change in the work or materials.

§ 5. That no change of the plan or plans, descriptions, bills of materials, or specifications which shall either increase or decrease the cost of said institution, asylum, building, or improvement, exceeding the sum of one thousand dollars, shall be made or allowed after they are once approved and filed with the controller of state as herein required, until such proposed change shall have received the approval of the governor, state treasurer, and secretary of state; and when so approved, the plan or plans of such change, with the description thereof, and the specifications of the work, and bills of material, shall be filed with the controller of state in the same manner as required before such change was

made; and no allowance whatever shall be made for work performed or materials furnished under such change of plan or plans, or descriptions or specifications, or bills of materials, unless, before such labor is performed and materials furnished, a contract or contracts therefor is made in writing, which contract or contracts shall show distinctly the nature of such change, and shall be subject to all the conditions and provisions herein imposed upon the original contracts, and be subject also to the approval of the attorney-general as hereinbefore provided; provided, that all changes in the contract exceeding five hundred dollars shall be by contracts in writing, with full specifications and estimates, and shall become a part of the original contract, and shall be filed with the controller of state, with the original contract; and provided further, that the amount of such change in the contract, plans, descriptions, bills of materials, or specifications shall not, in the aggregate, increase the cost of construction of said institution, asylum, building, or improvement more than three per centum of the original contract price or cost.

§ 6. That no contract or contracts shall be made for the labor or material herein provided for at a price in excess of the entire estimate thereof in this act required to be made, and the entire contract or contracts shall not, including estimates of expenses for architects and otherwise, exceed in the aggregate the amount authorized by law for such institution, asylum, building, or other improvement, or such addition to, or alteration or improvement thereof, under the penalties of section ten of this act hereinafter provided.

§ 7. At the time or times named in the contract or contracts made and filed with the controller of state, or which has been previously made and filed with him, in accordance with the provisions of this act, for payment to the person or persons with whom such contract or contracts has been made, it shall be and is hereby made the duty of the commissioners, directors, trustees, or other officer or officers, to whom is confided the duty of superintending the erection of such institution, asylum, building, or improvement, or adding to, altering, or improving the same, to make or cause to be made a full, accurate, and detailed estimate of the various kinds of labor performed and materials furnished under such contract or contracts, with the amount due for each kind of labor and materials, and the amount due in the aggregate, which estimate shall be based upon an actual measurement of the labor so performed and materials so furnished, which estimate shall, in all cases, give the amounts of the preceding estimate or estimates, and the amount of labor performed and materials furnished since the last estimate, which estimate or estimates so made, as in this act required, shall be recorded in a book for that purpose to be provided and kept, or caused to be kept, by the said commissioners, directors, trustees, or other officer or officers, and a certified copy thereof, addressed to the controller of state by the said commissioners, directors, trustees, or other officer or officers, or by such person as they may designate for that purpose, be delivered to the contractor or contractors, entitled thereto; provided, that upon all estimates of materials furnished and delivered, and not actually having entered into and become a part of said institution, building or other improvement, there shall not be paid, until the same shall be incorporated into and become a part of said institution, building, or other improvement, exceeding fifty per centum of such estimated value.

§ 8. It shall be the duty of the controller of state, on the receipt of such esti-

mate so certified and approved, to compare carefully the same with the contract or contracts under which labor was done or materials furnished, and if there had been any previous estimates, then with such estimates; and if, upon such comparison, he shall find such last-named estimate in all respects correct, he shall number the same, place it on file, and have a record thereof made, and give to the person or persons entitled thereto, taking his or their receipt therefor, a warrant on the treasurer of state for the amount shown by such estimate or estimates to be due, less the amount of ten per centum thereon, which shall be retained as an additional security for the faithful performance of his or their contract or contracts, and shall be forfeited to the state in the event of a failure of such contractor or contractors to conform in good faith to the terms and conditions of such contract or contracts; but when the labor to be performed and materials furnished, under such contract or contracts, is performed and furnished, and a final estimate thereof made, the controller of state shall include in the warrant or warrants for the amount of such last estimate the percentage retained on former estimates.

§ 9. The treasurer of state shall pay the warrants issued by the controller of state, under and by virtue of the provisions of this act, placing the same on file and keeping a register of the names of the person or persons to whom such warrants are paid.

§ 10. Any commissioner, director, trustee, or other officer or person otherwise appointed, whose duty it is to superintend, in whole or in part, the erection of such institution, asylum, building, or improvement, or of adding to, altering, or the improvement thereof, or the making of the plans, descriptions, and specifications of the labor to be performed and materials to be furnished, as provided in this act, and the estimates of the cost thereof, or the estimates of the amount of labor done and materials furnished from time to time, under and in accordance with the terms and conditions of the contracts in this act authorized to be made, and the provisions of this act, who shall, in the performance of the duty herein imposed upon him or upon them, knowingly make incomplete or fraudulent plans, drawings, bills of materials, specifications of work, or estimates of the cost thereof, or permit the work in any other manner than is prescribed in such plans, descriptions, and specifications, or with materials inferior to that required by such bills of materials, to the injury of the state; or shall knowingly make false estimates of the labor done or materials furnished, either in the quantity, or price thereof, to the injury of the state; or any contractor, or any agent of any contractor or contractors, who shall knowingly permit materials to be used or work to be done inferior to, or in violation of, the contract of such contractor or contractors, to the injury of the state, shall be deemed and held guilty of a felony, and upon conviction thereof shall be confined in the state prison for not less than one year nor more than five years, and be liable to the state for double the amount the state may have lost, or be liable to lose, by reason thereof.

§ 11. It shall be the duty of the attorney-general to have charge of and direct all the proceedings necessary to enforce the contracts authorized by this act and the provisions of this act, against such person or persons as become liable to the penalties herein prescribed.

§ 12. Whenever, in the opinion of the commissioners, directors, trustees, or

other officers charged with the duty of devising and superintending the erection, alteration, addition to, or improvement of any state institution, asylum, building, or other improvement under this act, or any law of this state, the work under any contract made in pursuance of this act, or any such law, is neglected by the contractor or contractors, or that the same is not prosecuted with the diligence and force specified, meant, or intended in and by the terms of the contract, it shall be lawful for such commissioners, directors, trustees, or other officers to make a requisition upon such contractor or contractors for such additional specific force, or for such additional specific materials, to be brought into the work under such contract, or to remove improper materials from the grounds, as in the judgment of such commissioners, directors, trustees, or other officers, said contract and its due and faithful fulfilment require; of which action of said board or other officers, due notice in writing of not less than five days, shall be served upon such contractor, or his or their agent having charge of the work. And if such contractor or contractors fail to comply with such requisition within fifteen days, it shall be lawful for said commissioners, directors, trustees, or other officers, with the consent, in writing, of the governor, treasurer of state, and secretary of state, to employ upon such work the additional force, or supply the materials so specifically required as aforesaid, or such part of either as they may deem proper, and to remove improper materials from the grounds; and it shall be the duty of such commissioners, directors, trustees, or other officers, to make separate estimates of all such additional force or materials so employed or supplied as aforesaid, and which, being certified to by said commissioners, directors, trustees, or other officers, shall be paid by the controller of state the same as if made out agreeably to section seven of this act, and the amount so paid shall be charged against said contractor or contractors, and deducted from his or their next, or any subsequent, estimate; or the same, or any part thereof, not paid as aforesaid, may be recovered by action from such contractor or contractors, and their sureties.

§ 13. In all contracts made under the provisions of this act, there shall be a provision in regard to the time when the whole, or any specified portion, of the work contemplated in said contract shall be completed, and also providing that for each and every day the same shall be delayed beyond such time or times so named, the said contractor or contractors shall forfeit and pay to the state a sum of money, to be fixed and determined in said contract, to be deducted from any payment or payments due, or to become due, to said contractor or contractors.

§ 14. All contracts now made and not performed, for the erection, alteration, addition to, or improvement of any state institution, asylum, building, or other improvement, shall, as far as practicable, be performed, completed, and enforced and settled for under this act, or may, by the consent of the contracting parties, be made to conform to and proceed under the provisions of this act.

§ 15. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 16. This act shall take effect from and after its passage.

As to unfinished municipal and county buildings, see succeeding acts.

Stats. 1875-6, 427.—Bateman vs. Colgan, 111 Cal. 580, 582, 44 Pac. Rep. 238. § 7—

The Newport W. & L. Co. vs. Drew, 125 Cal. 585, 591, 53 Pac. Rep. 187.

Stats. 1895, 237.—Bateman vs. Colgan, 111 Cal. 580, 587, 44 Pac. Rep. 238.

PUBLIC INSTITUTIONS—EXCHANGE OF COMMODITIES.

Providing for the exchange of commodities between the public institutions owned or managed and controlled by the state, or the political divisions thereof.

(Stats. 1905, 185, ch. CXCL.)

§ 1. It shall be the duty of the state board of examiners, within six months after the passage of this act, to arrange, so far as may be practical, for an exchange of surplus products, either manufactured or natural, between the several public institutions owned or managed and controlled by the state, or the political divisions thereof.

§ 2. It shall be the duty of the state board of examiners to so distribute and arrange, with the assistance of the boards of managers, directors or trustees of the several institutions referred to in section one of this act, the labor and industry of their inmates that it will prove conducive to their mutual assistance, with a view of advancing the economic management of all the institutions owned or managed and controlled by the state, or the political divisions thereof; and all such surplus products shall not be sold or disposed of to any individual, corporation or association not connected with the state, or any political division thereof, so long as there shall be any demand for any such products by any public institutions owned or managed and controlled by the state, or the political divisions thereof.

§ 3. In estimating the value of such articles for the purpose of such exchange or sale between public institutions, the cost of producing or raising such products, with ten per centum added, shall be the sale price thereof.

§ 4. Each institution shall notify the state board of examiners what surplus products they have to dispose of, as set forth in this act, and the state board of examiners shall notify all the other institutions owned or managed and controlled by the state, or the political divisions thereof, that such articles can be procured and where, and thereupon the provisions of section two of this act shall become effective, and the state board of examiners shall allow no claims for the purchase of any products from any individual, corporation or association so long as the same might have been procured from a state institution after it had been duly notified of that fact.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

PUBLIC LANDS.

See tit. Lands—Public.

PUBLIC NUISANCE.

See tits. District Attorney; Nuisances.

PUBLIC OFFICE.

Constitutional right.—Matter of Carter, 141 Cal. 316, 318, 74 Pac. Rep. 997.

PUBLIC OFFICERS.

Making a conspiracy to commit any crime against the person of, or an attempt to kill or commit any assault upon, the president or vice-president of the United States, the governor of any state or territory, any United States justice or judge, or the secretary of any executive department of the United States, a felony; and providing a penalty therefor.

(Stats. 1903, 58, ch. LV.)

§ 1. If two or more persons conspire to commit any crime against the person of the president or vice-president of the United States, the governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States, they are guilty of a felony; and upon conviction thereof, shall be punished by imprisonment in the state prison not less than ten years.

§ 2. Every person who attempts to kill, or who commits any assault upon the president or vice-president of the United States, the governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States, is guilty of a felony; and upon conviction thereof, shall be punished by imprisonment in the state prison not less than ten years.

§ 3. This act shall take effect and be in force from and after its passage.

Contracts by.—See next following statute.

PUBLIC OFFICERS—CONTRACTS.

Concerning confirming and ratifying leases and other contracts made by any officer or boards of officers of this state.

(Stats. 1901, 601, ch. CXCV.)

§ 1. All leases for terminal facilities made or executed by any state officer or board of state officers to any person, persons or corporation within two years prior to the passage of this act and which shall be on file in the office of the secretary of state on or before February fifteenth, nineteen hundred and one, are hereby recognized, approved and ratified, and the terms, covenants and conditions thereof shall bind the parties thereto, their successors and assigns, and the state of California.

§ 2. The lease of the lands known as China Basin in the city and county of San Francisco to the San Francisco and San Joaquin Valley Railway Company for terminal facilities, made on November twenty-first, nineteen hundred, by and between said company and the board of state harbor commissioners, is hereby approved and ratified, and the covenants, conditions, and terms thereof shall bind the parties thereto, their successors and assigns, and the state of California.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

§ 4. This act shall take effect immediately.

See tits. Bonds; Candidates; Public Buildings; Public Property; Wages.

PUBLIC PROPERTY—INVENTORIES.

To require an inventory of state and county property, and directing that record of the same be kept.

(Stats. 1897, 5, ch. VII; amended 1901, 93, ch. LXXVIII.)

§ 1. It shall be the duty of all state officers, boards and commissions, of every kind having in charge property belonging to the state to make an inventory thereof within ninety days from and after the passage of this act, and also on or before the thirty-first day of December, one thousand eight hundred and ninety-eight, and annually thereafter, of all property purchased with state money and in their keeping. The report of said inventory shall, under oath, be made to the state board of examiners, and said inventory shall be recorded by said board of examiners, in a book prepared for that purpose. Any state officer or clerk or member of any board or commission of any kind having in charge property belonging to the state, who fails to make the inventory herein provided for within the time limited, shall, upon conviction thereof, be adjudged guilty of a misdemeanor. [Amendment, Stats. 1901, 93.]

§ 2. It shall be the duty of all county officers, including supervisors, superintendents of poor farms, hospitals, orphanages or almshouses to make, on or before the first day of July, one thousand eight hundred and ninety-seven, also on or before the thirty-first day of December, one thousand eight hundred and ninety-eight, and annually thereafter, an inventory, showing in detail all county property in their possession or under their charge. In case of county officers and employees, said inventory shall show the source from which said property was derived, and if possible the cost of each item. Each officer referred to in this section shall under oath file his respective inventory with the county clerk at the times and dates mentioned in this section, and all said inventories shall be kept of record by the county clerk. Any person whose duty it is under this section to make and file the inventory herein provided for, or shall fail to perform said duty as required hereby within the time limited herein, shall upon conviction thereof be adjudged guilty of a misdemeanor. [Amendment, Stats. 1901, 93.]

§ 3. The outgoing officers, boards, commissions and employees mentioned in sections one and two of this act shall deliver to their successor in office an inventory of all state or county property in their possession, and the incoming officer shall receipt for the same. Any person omitting to comply with the provisions of this section shall be adjudged guilty of a misdemeanor. [Amendment, Stats. 1901, 93.]

§ 4. This act shall take effect immediately.

The statute of 1901 purports to amend, and apparently supersedes, the former statute in every section.

PUBLIC SERVICE—ELIGIBILITY.

See tits. Females; Office and Officers; Public Works.

PUBLIC SERVICE—UNION SOLDIERS.

To provide for, insure, and maintain preference in the appointment, employment, and retention in the public service, and upon public works of the state of California, of honorably discharged ex-Union soldiers, sailors, and marines of the War of the Rebellion.

(Stats. 1891, 289, ch. CCXII.)

§ 1. In every department, upon all public works, whether under contract or not, in all offices, employments, places, and positions of trust or profit of this state, honorably discharged ex-Union soldiers, sailors, and marines of the War of the Rebellion must be preferred for appointment, employment, and retention therein; and age, loss of limb, or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them, provided they possess the capacity necessary to fill the position; and persons thus preferred or appointed unless appointed or employed for a definite statutory period, shall not be dismissed from such positions, offices, or employments, except upon charges, after a hearing, and for just cause.

§ 2. This act shall take effect immediately.

Allison vs. Board of Education, 125 Cal. 72, 73, 57 Pac. Rep. 673.

PUBLIC WORKS—AUDITING BOARD.

Providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the purposes of this act.

(Stats. 1897, 171, ch. CXIV; amended 1900, 21, ch. XIII; 1901, 91, ch. LXXVI.)

§ 1. Within thirty days after the passage of this act, the governor shall appoint five persons who shall be citizens of the state of California, and not all members of the same political party, and who, after the first appointment, shall hold office for four years after their appointment, who shall be known as the auditing board to the commissioner of public works. They must, within fifteen days after receiving notice of their appointment, meet in the city of Sacramento and organize by selecting from their number a president and secretary. But of those appointed under this act, the term of office of two shall be for two years, and the term of the others for four years, and the governor shall designate, in their commissions, their respective terms. Thereafter all shall be appointed for four years. All vacancies shall be filled in like manner by appointment from the governor, but the person appointed to fill a vacancy shall fill only the unexpired term. No member thereof shall recover any compensation whatever, but they may be paid their reasonable traveling expenses in attending meetings, to be audited by the board of examiners. They shall meet at Sacramento city once in two months, and oftener if required.

§ 2. For the purposes of this act, the report of the commissioner of public works, dated November sixteenth, eighteen hundred and ninety-six, and accom-

panying reports and plans of engineers, shall be adopted and made the basis of operations, and the plans therein specified for promoting drainage and improving and rectifying river channels, shall, as far as practicable, be carried out and finished as herein provided. In addition to the work outlined and described in said report, the said commissioner of public works and board of auditors are hereby authorized and empowered to perform other further and additional work upon the Sacramento River, the San Joaquin, Feather, Yuba, Bear, Mokelumne, and Tuolumne rivers, and Petaluma, Alviso, and Napa creeks, and upon all tide waters entering and flowing into the bays of San Pablo, Suisun, and San Francisco, and also upon the navigable creeks, rivers, and sloughs of the state of California, of a character and nature similar to that outlined and described in said report, for the purpose of promoting drainage, rectifying channels, and improving navigation. [Amendment, became a law under constitutional provision without governor's approval, March 2, 1901. Stats. 1901, 91.]

§ 3. The commissioner of public works shall have charge and superintendence of all work authorized by this act, and shall employ and direct all employees, but no expenditure shall be made without the sanction of the auditing board. The commissioner of public works shall determine the character and extent of the work to be done in accordance with the said report, and shall have full power to carry on and complete the same.

§ 4. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of three hundred thousand dollars, to be paid to the said auditing board, and to be expended for the purposes hereinafter specified, to wit: for the purchase, construction, and operation of one or more dredgers, or machines, and appliances to improve and rectify the river channels of the state of California, so as to promote drainage and to protect towns and cities of the state of California from inundation, as outlined and described in the said report of commissioner of public works; to erect, build, and construct embankments, and other works, where necessary for carrying out the purposes of this act; to employ persons in and about said work, and to purchase such supplies as may be necessary for the carrying on of the same, and for doing all other work described in said report, to improve and rectify river channels so as to promote drainage.

§ 5. The commissioner of public works shall have power to employ such persons in and about said work as the auditing board may determine to be necessary, at a compensation to be fixed by the auditing board. All contracts for the purchase of material and supplies, or for such work as can be done by contract, where the expense thereof shall exceed the sum of five hundred dollars, shall be awarded to the lowest bidder, at a public letting thereof, and after a notice to bidders to be published in one newspaper published in the city of Sacramento, one in Stockton, and one in San Francisco, for at least one week; provided, that at least two weeks shall intervene between the last publication of said notice, and the time for opening bids; provided, the said bid is a fair and reasonable one. All bids required by this act shall be accompanied by such security as the auditing board may require, conditioned upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond, with good and sufficient sureties, in such sum as the auditing board may require, and to their satisfaction, that he will faithfully

perform his contract. If all the bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise for such time and in such papers as they see proper, for proposals, and may so continue to renew the advertisement until satisfactory contracts are made; and in the mean time the board may contract for articles and supplies for immediate and temporary use, with any one whose offer is regarded as just and equitable, or may purchase in the open market. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the same letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items, and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract and who had not, in the opinion of the board, faithfully complied therewith. If, however, any sudden emergency should arise, rendering it necessary, in the judgment of the auditing board, to protect works already completed, or to prevent any work in process of construction being damaged by storms or flood-waters, that immediate repairs or work should be done, the said commissioner of public works shall have power to perform such work, or make such repairs, in the manner which to him seems most advisable.

§ 6. It will not be necessary to obtain the sanction of any other board or officer for the doing of any work, or the letting of any contract, except as herein specified, but all claims shall be audited by the state board of examiners as provided for by law.

§ 7. The auditing board may condemn the right of way necessary for the purpose of doing the work outlined and described in said report of the commissioner of public works, and may purchase or condemn all land and material necessary to carry out such plans of drainage, and may generally connect with, enlarge or strengthen any work of construction, and may condemn any lands which may be by them deemed necessary for the purposes of the act, and it is hereby declared that such purposes are a public use and that said appropriation is for the public benefit; provided, however, that they shall not interfere with any existing reclamation work or cut ditches or drains without the consent of the board of trustees thereof on, in, or over any lands situated in any swamp-land, reclamation, levee, or protection district.

§ 8. Whenever the auditing board cannot procure from the owner or owners thereof, without purchase, the right of way or material needed for the construction of such works as are described in the said report of the commissioner of public works, or cannot procure the consent to join or connect with any existing works, or procure lands necessary for the construction and completion of the said system and plan described in said report, the said auditing board may, in their own name or in the name of the state of California, proceed to condemn the same under the provisions of title seven, part three, of the Code of Civil Procedure, and amendments thereto, which are now existing or which may here-

representative, when making payments of moneys thus due, shall withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation.

§ 3. Any officer, agent, or representative of the state of California, or of any political subdivision thereof, who shall violate any of the provisions of this act, shall be deemed guilty of misdemeanor, and shall upon conviction be punished by fine not exceeding five hundred (500) dollars, or by imprisonment, not exceeding six (6) months, or by both such fine and imprisonment, in the discretion of the court.

§ 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after the date of its passage.

Stats. 1899, 149.—Leake vs. Colgan, 125 Cal. 413, 414, 415, 58 Pac. Rep. 69; Worthington vs. Breed, 142 Cal. 104, 75 Pac. Rep. 675.

The foregoing is believed to have superseded Stats. 1899, 149, ch. CXIV, and 1901, 561, ch. CLXXII.

See San Francisco Charter, Stats. 1899, 250.

PUBLIC WORKS—LABOR CLAIMS.

To secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon state, municipal, or other public work.

(Stats. 1897, 201, ch. CXL.)

§ 1. Every contractor, person, company, or corporation, to whom is awarded a contract for the execution or performance of any building, excavating, or other mechanical work, for this state, or by any county, city and county, city, town, or district therein, shall before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officers, or board, in a sum not less than one half of the total amount payable by the terms of the contract; such bond shall be executed by the contractor, and at least two sureties, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company or corporation, fails to pay for any materials or supplies furnished for the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the sureties will pay the same, in an amount not exceeding the sum specified in the bond; provided, that such claims shall be filed as hereafter required.

§ 2. Any materialman, person, company, or corporation, furnishing materials or supplies, used in the performance of the work, contracted to be executed or performed, or any person who performed work or labor upon the same or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company, or corporation, to whom the contract has been awarded, shall, within thirty days from the time such work is completed, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a verified statement of such claims, together with a statement that the same has not been paid. At any time within ninety days after the filing of such claim, the

person, company, or corporation filing the same may commence an action against the sureties on the bond, specified and required by section one hereof.

§ 3. This act shall take effect immediately.

Union S. M. Works vs. Dodge, 129 Cal. 399, 394, 62 Pac. Rep. 41; (municipal) French vs. Powell, 135 Cal. 636, 637, 68 Pac. Rep. 92.

See tits. *Debris Commissioner; Hours of Labor; Municipal Corporations; Public Buildings; Public Service; Wages.*

PUBLIC WORKS—MORMON CHANNEL.

Authorizing the commissioner of public works to obtain a right of way for a canal to divert the waters of Mormon Channel into the Calaveras River, to maintain condemnation suits therefor, and making an appropriation to pay for said right of way and the costs and expenses of obtaining the same.

(Stats. 1903, 476, ch. CCCLVIII.)

§ 1. The commissioner of public works is hereby authorized to obtain, either by purchase or condemnation suits, a right of way for a diverting canal from the Mormon Channel to the Calaveras River east of the city of Stockton, in San Joaquin County, and along the channel of said Calaveras River as far as may be necessary according to the surveys for such canal, adopted by the United States government, and to employ such counsel and other assistance as may be necessary to conduct such suits and obtain said right of way and to fix the compensation of such counsel and such assistance.

§ 2. The sum of sixty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to pay for said right of way and the costs of obtaining the same, to be paid to [by] the auditing board to the commissioner of public works, to be expended for the purposes in this act specified.

§ 3. The controller is hereby directed to draw his warrant in favor of said auditing board for the amount appropriated by this act, and the treasurer is hereby directed to pay the same.

§ 4. This act shall take effect from and after the first day of January, anno Domini nineteen hundred and four.

PUBLIC WORK—WAGES.

Fixing the minimum rate of compensation for labor on public work.

(Stats. 1897, 90, ch. LXXXVIII.)

§ 1. The minimum compensation to be paid for labor upon all work performed under the direction, control, or by the authority of any officer of this state acting in his official capacity, or under the direction, control, or by the authority of any municipal corporation within this state, or of any officer thereof acting as such, is hereby fixed at two (2) dollars per day; and a stipulation to that effect must be made a part of all contracts to which the state, or any municipal corporation therein, is a party; provided, however, that this act shall not apply to persons employed regularly in any of the public institutions of the state, or any city, city and county, or county.

§ 2. This act shall take effect immediately.

QUARANTINE—ANIMALS.

To regulate quarantine, and the admission of horses, cattle, sheep, and swine into the state of California from infected districts.

(Stats. 1889, 375, ch. CCLII.)

§ 1. The state board of health shall be empowered to declare quarantine against the entry of domestic animals from any state or territory, or any foreign port or country, in which contagious or infectious diseases are known to exist; said infected parts to be named in the proclamation.

§ 2. All domestic animals coming into the state from districts mentioned in section one must be required to enter the state at such points only as the state board of health may by proclamation determine, and designate where they must be unloaded for inspection.

§ 3. All owners of domestic animals coming into this state from localities quarantined against will be required to furnish the following evidence that such animals are free from disease.

First—The affidavit of two disinterested parties, who have known such animals for a period of four months prior to the date of shipment, that they have been healthy, and exposed to no contagious disease, and that no contagious disease is known or believed to exist in the district or country from which they came.

Second—The certificate of the county clerk of the county, that persons making such affidavit are responsible and reputable citizens of the county.

Third—The affidavit of the owner or person in charge, made at the point of entry, that such domestic animals are the identical animals described in the foregoing affidavits, and that shipment has been direct, and without unloading, except for food and water, and in cleansed and disinfected cars.

§ 4. Owners or persons in charge of domestic animals from localities not named in such proclamation must certify, under oath, that such domestic animals have been kept in one place for a period of four months immediately preceding the date of shipment (giving the name of the town and county and state, territory, or country), and have not been exposed to any contagious disease for a period of three months prior to the date of shipment.

§ 5. All the foregoing evidence to be submitted to the state veterinarian, or an authorized inspector of the state, when permits for shipment in this state shall be issued.

§ 6. Dealers' calves gathered in quarantined states or territories will be quarantined at the points of entry.

§ 7. Domestic animals not receiving permits for shipment, and retained in quarantine, will be held at the owner's risk and expense.

§ 8. All domestic animals arriving at points of entry shall be inspected free of charge to the owner.

§ 9. No railway company doing business in this state shall receive for shipment into this state any domestic animals unless accompanied by a permit signed by an authorized inspector.

§ 10. No cattle shall enter this state from Texas, New Mexico, or Mexico, for

grazing purposes during the months of March, April, May, June, July, August, September, October, and November in each year.

§ 11. All cattle from those parts mentioned in section ten entering this state during the months mentioned in section ten, and intended for butchering purposes, shall pass from the point of entry into the slaughter-house yard, which yard shall be specially constructed and isolated for the purpose of receiving such stock. The stock shall be unshipped in said yard direct from the cars running into the yards for that purpose.

§ 12. Said cattle shall moreover be shipped in specially constructed cars, which will prevent the dropping of manure and urine on the track during transit, and in unshipping such cattle the cars shall be thoroughly disinfected with carbolized whitewash.

§ 13. All cattle entering this state for the purposes mentioned in section eleven shall only be unshipped between the point of entry and destination at places set apart by the state board of health in its proclamation; and no native stock shall be allowed at any time to enter said places; said places shall be moreover thoroughly disinfected in such manner as the state board of health may direct.

§ 14. Any person or persons, corporations, or firms, who shall violate any of the provisions of this act, shall be liable for all damages sustained, and a fine of one thousand dollars, to be recovered in any court of competent jurisdiction, on account of any contagious or infectious disease being communicated from any diseased animal to any other animal in the neighborhood, or along the line of such transportation of such diseased animals into or through this state, or from one part thereof to another; and the existence or presence of such contagious or infectious disease among the native cattle of this state on the same ranch with or in the vicinity of any such diseased animals, or along the line or route over which they were transported, shall be prima facie evidence that the same were affected with such disease at the time of being so removed or transported, and communicated it to such native domestic animals so affected therewith.

§ 15. The words "domestic animals" whenever used in this act shall be construed to mean and include horses, mules, asses, cattle, sheep, goats, and swine.

§ 16. The state board of health are hereby authorized to appoint one inspector for each of the points of entry by railroad communication into this state, who shall reside at such point as may be designated by the state board of health, and shall receive such compensation for actual services as may be determined by said board, not to exceed one hundred dollars per month; such compensation to be paid out of any moneys in the state treasury not otherwise appropriated, upon the warrants to the controller of state drawn upon the certificate of the state board of health allowing the same.

§ 17. This act shall take effect immediately.

See *tits. Animals—Contagious Diseases; Fruit—Horticulture; State Board of Health.*
See **KERR'S CYC. PEN. CODE** § 377a, added 1905, 143, ch. CXLIV.

QUICKSILVER—ADULTERATION.

To secure to the miners of this state pure and unadulterated quicksilver.

(Stats. 1865-6, 191, ch. CXCIX.)

§ 1. Every company or person within this state engaged in the production of quicksilver by mining for the purposes of sale, and every firm, company, or person importing into this state quicksilver for the purpose of sale, shall cause to be prepared a metallic stamp, of such form and character as may enable such company or person to impress upon wax or other plastic material the seal hereinafter provided. Such stamp shall be so constructed that either by characters engraved upon the same, or movable types and dies connected therewith, there may be impressed a seal, showing:

First—The name of the company, firm, or person producing or importing the quicksilver;

Second—The date at which such seal is applied to each tank or vessel of quicksilver.

Third—The amount of quicksilver contained in such tank or vessel.

§ 2. Before any tank of quicksilver shall leave the works of any mining company engaged in the production of the same for sale, or the warehouse of any firm or person importing such quicksilver for sale, such company, firm, or person shall cause a seal of wax or other plastic material adapted to the purpose to be applied to the tap, plug, or orifice through which such tank is filled, and in such manner that such tap or plug cannot be removed or disturbed or such orifice opened without breaking or displacing such seal. Such seal when thus applied shall be impressed with the stamp above provided, in such manner that such seal shall exhibit plainly all the characters required of such stamp.

§ 3. Any person who shall forge or falsely fabricate the stamp or seal of any company, firm, or person, as herein provided, or attach the same to any tank or vessel of quicksilver, shall be deemed guilty of forgery, and, upon conviction, shall be punished by imprisonment in the state prison for the period of not less than one nor more than five years.

§ 4. Any person who shall wilfully and knowingly adulterate and debase any quicksilver designed for sale or that may hereafter be offered for sale, by mixing with such quicksilver any lead, antimony, or other base metal, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding one thousand dollars, or imprisonment in the county jail not exceeding one year, or both such fine and imprisonment.

§ 5. Any vendor of quicksilver who shall vend or sell to any person any quicksilver debased or adulterated by mixture with the same of any lead, antimony, or other base metals, shall be liable to the purchaser of such quicksilver for all the damages and injury sustained from such debasement, to be recovered by such purchaser in a civil action. And such damages, when ascertained by the court or jury, shall be at once quadrupled by the court, or by the clerk, by order of the court, and judgment for four times the damages proven shall be entered in favor of the plaintiff and against such defendant; provided, that nothing contained in this section shall be taken to apply to any person selling quicksilver that has been already employed in mining or the mechanical arts, and who when selling the same shall state to the purchaser that such quicksilver has been thus employed.

RACE OR COLOR.

See tit. Civil Rights of Citizens.

RAILROAD COMMISSIONERS.

To organize and define the powers of the board of railroad commissioners.

(Stats. 1880, 45, ch. LIX.)

§ 1. The three persons elected railroad commissioners, pursuant to the provisions of section twenty-two of article twelve of the constitution of this state, constitute, and shall be known and designated as, the "Board of Railroad Commissioners of the State of California." They shall have power to elect one of their number president of said board, to appoint a secretary, to appoint a bailiff, who shall perform the duties of janitor; also, to employ a stenographer, whenever they may deem it expedient.

§ 2. The salary of each commissioner shall be four thousand dollars per annum; the salary of the secretary shall be twenty-four hundred dollars per annum; the salary of the bailiff shall be twelve hundred dollars per annum, such salaries to be paid by the state of California in the same manner as the salaries of state officers are paid. The stenographer shall receive a reasonable compensation for his services, the amount to be fixed by the state board of examiners, and paid by the state. Said commissioners, and the persons in their official employment when traveling in the performance of their official duties, shall have their traveling expenses other than transportation paid, the amounts to be passed on by the state board of examiners, and paid by the state. Said board of railroad commissioners shall be allowed one hundred dollars per month for office rent, and fifty dollars per month for fuel, lights, postage, expressage, subscription to publications upon the subject of transportation, and other incidental expenses, to be paid by the state; provided, that all moneys remaining unexpended at the expiration of each fiscal year shall be returned to the state treasury. Said board is further authorized to expend not to exceed four hundred dollars for office furniture and fixtures, to be paid by the state. The state shall furnish said board with all necessary stationery and printing, upon requisitions signed by the president of said board.

§ 3. Said commissioners, and the persons in their official employment, shall, when in the performance of their official duties, have the right to pass free of charge on all railroads, steamers, ships, vessels, and boats, and on all vehicles employed in or by any railroad or other transportation company engaged in the transportation of freight and passengers within this state.

§ 4. It shall be the duty of the attorney-general, and the district attorney in every county, on request of said board, to institute and prosecute, and to appear and to defend for said board, in any and all suits and proceedings which they or either of them shall be requested by said board to institute and prosecute, and to appear in all suits and proceedings to which the board is a party, shall have precedence over all other business except criminal business; provided, that said board shall have the power to employ additional counsel to assist said attorney-general, or said district attorney, or otherwise, when in their judgment the exigencies of the case may so require. The fees and expenses of said additional

counsel to be determined by the state board of examiners, and paid by the state.

§ 5. The office of said board shall be in the city of San Francisco. Said office shall always be open (legal holidays and non-judicial days excepted). The board shall hold its sessions at least once a month in said city of San Francisco, and at such other times and such other places within this state as may be expedient. The sessions of said board shall be public, and when held at a place other than the office in the city of San Francisco, notice thereof shall be published once a week for two successive weeks before the commencement of such session, in a newspaper published in the county, where such session is to be held; and if no newspaper is published in such county, then in a newspaper published in an adjacent county. Such publication to be paid by the state in the manner as other publications authorized by law are paid.

§ 6. The board shall have a seal, to be devised by its members, or a majority thereof. Such seal shall have the following inscription surrounding it: "Railroad Commission, State of California." The seal shall be affixed only to, first, writs; second, authentications of a copy of a record or other proceeding, or copy of a document on file in the office of said commission.

§ 7. The process issued by said board shall extend to all parts of the state. The board shall have power to issue writs of summons and of subpœna in like manner as courts of record. The summons shall direct the defendant to appear and answer within fifteen days from the day of service. The necessary process issued by the board may be served in any county in this state by the bailiff of the board, or by any person authorized to serve process of courts of record.

§ 8. The secretary of said board shall issue all process and notices required to be issued, and do and perform such other duties as the board may prescribe. The bailiff shall preserve order during the sessions of said board, and shall have authority to make arrests for disturbances. He shall also have authority, and it shall be his duty, to serve all process, orders, and notices issued by said boards, when directed by the president, and make return of the same.

§ 9. All complaints before said board shall be in writing and under oath. All decisions of said board shall be given in writing, and the grounds of the decisions shall be stated. A record of the proceedings of said board shall be kept, and the evidence of persons appearing before said board shall be preserved.

§ 10. Whenever the board shall render any decision within the purview and pursuant to the authority vested in said board by section twenty-two of article twelve of the constitution, said board, or the person, copartnership, company, or corporation making the complaint upon which such decision was rendered, is authorized to sue upon such decision in any court of competent jurisdiction in this state.

§ 11. Whenever said board, in the discharge of its duties, shall establish or adopt rates of charges for the transportation of passengers and freight, pursuant to the provisions of the constitution, said board shall serve a printed schedule of such rates, and of any changes that may be made in such rates, upon the person, copartnership, company, or corporation affected thereby; and upon such service, it shall be the duty of such person, copartnership, company, or

corporation to immediately cause copies of the same to be posted in all its offices, station-houses, warehouses, and landing offices affected by such rates, or change of rates, in such manner as to be accessible to public inspection during usual business hours. Said board shall also make such further publication thereof as they shall deem proper and necessary for the public good. If the party to be served, as hereinbefore provided, be a corporation, such service may be made upon the president, vice-president, secretary, or managing agent thereof, and if a copartnership, upon any partner thereof. The rates of charges established or adopted by said board, pursuant to the constitution and this act, shall go into force and effect on the twentieth day after service of said schedule of rates, or changes in rates, upon the person, copartnership, company, or corporation affected thereby, as hereinbefore provided.

§ 12. When jurisdiction is, by the constitution, conferred on the board of railroad commissioners, all the means necessary to carry it into effect are also conferred on said board, and when in the exercise of jurisdiction within the purview of the authority conferred on said board by the constitution the course of proceeding be not specifically pointed out, any suitable process or mode of proceeding may be adopted by the board which may appear most conformable to the spirit of the constitution.

§ 13. The said board shall, immediately after entering upon the performance of its duties, demand and receive from the transportation commissioner, appointed under an act approved April first, eighteen hundred and seventy-eight, section nine, chapter one, all public property belonging to the office of said transportation commissioner, in his possession, or under his control, and it is hereby made his duty to deliver the same to the said board.

§ 14. The term "transportation companies" shall be deemed to mean and include:

1. All companies owning and operating railroads (other than street railroads) within this state;

2. All companies owning and operating steamships engaged in the transportation of freight or passengers from and to ports within this state;

3. All companies owning and operating steamboats used in transporting freight or passengers upon the rivers or inland waters of this state.

The word "company," as used in this act, shall be deemed to mean and include corporations, associations, partnerships, trustees, agents, assignees, and individuals. Whenever any railroad company owns and operates in connection with its road, and for the purpose of transporting its cars, freight, or passengers, any steamer or other water-craft, such steamer or other water-craft shall be deemed part of its said road. Whenever any steamship or steamboat company owns and operates any barge, canal-boat, steamer, tug, ferry-boat, or lighter, in connection with its ships or boats, the thing so owned and operated shall be deemed to be part of its main line.

§ 15. The salaries of the commissioners, secretary, bailiff, and all other officers and attachés in any manner employed by the board of commissioners, and all expenses of every kind created under this act, shall be paid out of any money in the general fund not otherwise appropriated, and the controller of state is hereby authorized and directed to draw his warrants from time to time for such

purposes, and the state treasurer is hereby authorized and directed to pay the same.

§ 16. This act shall take effect immediately.

Moran vs. Ross, 79 Cal. 159, 164, 21 Pac. Rep. 547, 958; Dyer vs. County Placer, 90 Cal. 276-278, 27 Pac. Rep. 197; Rea vs. Wood, 105 Cal. 314, 320, 38 Pac. Rep. 899; Behlow vs. Southern Pac. R. Co., 130 Cal. 16, 17-20,

62 Pac. Rep. 295; Railroad Comrs. vs. Market St. R. Co., 132 Cal. 677, 678-687, 64 Pac. Rep. 1065.

See tit. **Commissioners of Transportation.**

RAILROADS—COMPLETION.

To enable railroad companies to complete their railroads.

(Stats. 1877-8, 944, ch. DXCVII.)

§ 1. Every railroad company heretofore organized under the laws of this state, and which has completed a portion of its road prior to the passage of this act, is hereby authorized and empowered to complete its road as described in its articles of incorporation, notwithstanding it may not have begun the construction of its road within two years after filing its original articles of incorporation, and notwithstanding it may not have completed and put in operation five miles of its road each year thereafter.

§ 2. This act shall take effect from and after its passage.

RAILROADS—ABOVE CERTAIN LEVELS.

To provide for the management and operation of railroads above certain elevations.

(Stats. 1897, 5, ch. V.)

§ 1. All railroads operated in this state whose lines of road are wholly constructed at an elevation of five thousand feet, or more, above the level of the sea, shall only be required to maintain and operate their roads, or to run passenger or freight cars thereon, between the fifteenth day of May and the fifteenth day of October in each year.

RAILROADS—OPERATION.

To compel railroad corporations, or individuals owning railroads, to operate their roads.

(Stats. 1880, 43, ch. LVII.)

§ 1. From and after the completion of any railroad, or the completion of such portion thereof capable of being operated, it shall be the duty of the corporation or individual owning the same, to operate it; and upon the failure of said corporation or individual so owning said road to keep the same, or any part thereof, in full operation for the period of six months, its or his right to operate the same in whole or in part, as the case may be, shall be forfeited; and the lands occupied for the purposes of its or his road, so far as the same shall not be operated, shall revert to the original owners, or their successors in interest. A railroad shall be deemed to be in full operation when one passenger train, or one mixed train, is run over it once each day in each direction, and a sufficient number of freight trains to accommodate the traffic on said road.

§ 2. This act shall not be construed to apply to a case where the operation of the road is prevented by the act of God, nor to a case where the operation of said road, together with its branch or trunk lines, does not yield income sufficient to defray the expenses of maintaining and operating the same in connection with its said branch or trunk lines.

§ 3. The railroad commissioners of the state of California shall have the power to examine and determine the question whether said road, together with its said branch and trunk lines, does or does not yield income sufficient to operate the same.

§ 4. This act shall take effect immediately.

Behlow vs. Southern Pac. R. Co., 130 Cal. 16, 17, 20, 62 Pac. Rep. 295.

RAILROADS—OPERATION—ELECTRICITY.

Relating to the operation of railroads.

(Stats. 1893, 208, ch. CLXXV.)

§ 1. Every railroad company now or hereafter engaged in the business of operating a railroad or railroads, by steam motive power, in the state of California, is hereby authorized and empowered to use electricity or steam, or both electricity and steam, for the purpose of propelling cars or trains on such railroad or railroads, or upon any portion thereof; provided, that in incorporated cities and towns having more than five thousand inhabitants, authority must first be obtained from the legislative authority of such city or town in the same manner in which franchises are granted.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect immediately.

RAILROADS—SAFETY OF EMPLOYEES, ETC.

To promote the safety of employees and passengers upon street railroads, by compelling equipment of cars and dummies with fenders and brakes, and to prescribe penalties.

(Stats. 1899, 183, ch. CL.)

It is presumed that the substance of this statute is carried into the Penal Code by Stats. 1905, 766, ch. DLXXIII. See *KERR'S CYC. PEN. CODE* § 369a.

See tit. Explosives—Dynamite.

RAILROADS—SOUTHERN CALIFORNIA.

Granting the right of way and station grounds to the Southern California Railway Company over a portion of the asylum grounds in the county of San Bernardino.

(Stats. 1893, 121, ch. CV.)

§ 1. There is hereby granted to the Southern California Railway Company, a corporation organized under the laws of the state of California, for railway purposes and station grounds, a strip of land two hundred (200) feet wide, one hundred and twenty-five (125) feet thereof lying to the north of the center line of the railroad track as now constructed, and seventy-five (75) feet thereof to the south of said center line, across the southwest corner of the southwest quarter

of section twenty-nine, township one north, range three west, San Bernardino base and meridian. Said strip of land two hundred (200) feet wide commencing at the western boundary of the southwest quarter of section twenty-nine, and continuing along and on each side of the center line of said railroad as now constructed, to the south boundary of said quarter-section; the above tract of land being hereby granted to said railway company for its tracks, side-tracks, station grounds, and buildings. There is also hereby granted to said railway company a right of way fifty (50) feet wide, twenty-five (25) feet thereof on each side of and parallel to the center line of the railroad of said company as now constructed, over the east half of the northwest quarter of section thirty-two, township one north, range three west, San Bernardino meridian. Provided, always, and this grant is made upon the express condition, that said railway company shall keep and maintain a station for receiving and discharging passengers and freight on the grounds above described as station grounds; and provided also, that the state of California, through the board of directors of said asylum, hereby reserves the right to lay and construct across said grounds and right of way herein granted, all necessary and proper flumes and water pipes for the distribution of water, same to be laid and constructed with notice to and under the supervision of the chief engineer of the California Southern Railway Company, or its successors.

§ 2. There is also hereby granted to the said railway company the right to maintain its switch as now constructed from the main line of road where it crosses said asylum grounds to the northerly side of the asylum building now in process of building, for the purpose of handling material over said switch, for the use of said asylum; but this last grant shall terminate upon the adoption by the board of directors of said asylum of a resolution declaring the use of said switch no longer necessary, and within ninety days after the passage of said resolution, and its service upon said railway company, said switch shall be taken up and removed by said railway company, and at its own expense.

§ 3. This act shall take effect and be in force from and after its passage.

RAILROADS—SPUR TRACKS.

To authorize the construction, maintenance, and operation of private spur tracks in municipalities.

(Stats. 1905, 710, ch. DXLVIII.)

§ 1. The council or other legislative governing body of any city or town, or city and county, by a majority vote, may grant the right to property owners or to the proprietors of manufacturing or industrial enterprises to construct, maintain, and operate spur tracks from their premises to a connection with any railroad. Such grant shall, nevertheless, be revocable at the pleasure of the granting authority.

RAILROADS—STREET—FARES.

To limit and fix the rates of fares on street railroads in cities and towns of more than one hundred thousand inhabitants.

(Stats. 1877-8, 18, ch. XI.)

See KERR'S CYC. CIVIL CODE § 501 and note.

RAILROADS—STREET—ELECTRICITY.

To confirm, ratify, and make valid ordinances heretofore passed by the trustees, council or other body intrusted with the government of any incorporated city, city and county, or town giving authority and permission to propel cars upon railroad tracks laid through the streets and public highways of such incorporated city, city and county, or town, by electricity.

(Stats. 1891, 12, ch. XIX.)

§ 1. In all cases where, prior to the passage of this act, authority to lay railroad tracks through streets or public highways of any incorporated city, city and county, or town, has been obtained for a term of years not exceeding fifty, from the trustees, council, or other body to whom was intrusted the government of the city, city and county, or town, and permission has been granted by such governing body to propel cars upon such tracks by electricity, such authority and permission shall be, and shall be held and deemed, as valid and legal as the same would have been if, at the time of the obtaining thereof, section four hundred and ninety-seven of the Civil Code had expressly declared that permission might be given to propel cars upon such tracks by electricity, as well as by horses, mules, or wire ropes running under the streets and propelled by stationary steam engines; provided, that all such permissions or franchises heretofore granted shall be subject to the provisions of the laws of this state applicable to street railroads in general, and subject to the same regulations from city, city and county, and town authorities as if the said franchises were hereafter granted.

§ 2. This act shall take effect and be in force from and after its passage.

RAILROADS—STREET—MAIL-CARRIERS.

Requiring city, city and county, or town authorities to exact and require from persons or corporations seeking permission and authority to lay railroad tracks through streets or public highways of any incorporated city, city and county, or town, a satisfactory promise and undertaking to permit and allow mail-carriers in the employ of the United States government at all times, while engaged in the actual discharge of duty, to ride on the cars of such railroad without paying fare; and to make such promise and undertaking a condition precedent to the granting of such permission and authority by such governing board.

(Stats. 1893, 44, ch. XXVII.)

§ 1. In all cases hereafter, where application is made to the city, city and county, or town authorities, or to the trustees, council, or other body to whom is intrusted the government of the city, city and county, or town, for permission and authority to lay railroad tracks through streets or public highways of any incorporated city, city and county, or town, such authorities, before granting such permission and authority, in addition to the terms and restrictions which they are now, by law, authorized to impose, must exact and require from the persons or corporations asking or seeking such permission and authority, a satisfactory promise and undertaking to permit and allow mail-carriers in the employ of the United States government, at all times while engaged in the actual dis-

charge of duty, to ride on the cars of such railroad without paying any sum of money whatever for fare or otherwise. And such governing body of city, city and county or town authorities must make such promise and undertaking on the part of such persons or corporations a condition precedent to the granting of such permission and authority to lay railroad tracks through streets or public highways of such city, city and county, or town; provided, that all such permissions and franchises shall be subject to all other provisions of the laws of this state applicable to street railroads in general, and subject to regulations from city, city and county, and town authorities.

§ 2. This act shall take effect and be in full force from and after its passage.

RAILROADS.

See tits. **Corporations; Franchises; Municipal Corporations; Public Health.**

The following special legislation granting railroad franchises is noted:

To Central Pacific.—1863-4, 471, ch. CCCXVII, and see 1871-2, 432, ch. CCCXVIII.

Central Pacific—Relocation.—1863, 320, ch. CCXLIV.

To the California and Oregon.—1867-8, 655, ch. CCCCLXXXIII.

To California Pacific.—1867-8, 671, ch. CCCXCIX.

From Lone to Sutter Creek.—1877-8, 841, ch. DXXXIX.

From Colfax to Nevada City.—1873-4, 492, ch. CCCXXXVI.

From Marysville to Knight's Landing.—1873-4, 780, ch. DXLV.

RECLAMATION DISTRICTS—APPEALS.

Providing for appeals from orders of the board of supervisors forming or refusing to form reclamation or swamp-land districts, setting off lands from such districts, or including lands in such districts, or consolidating swamp-land or reclamation districts.

(Stats. 1893, 174, ch. CXLVII.)

§ 1. Any person having an interest affected by any order of the board of supervisors of any county, approving or refusing to approve any petition for the formation of a reclamation or swamp-land reclamation district, or in any manner creating or consolidating such districts, or including in or excluding from such district, any lands, may, within thirty days after said order is made, appeal therefrom to the superior court of the county.

§ 2. Such appeal shall be taken and prosecuted in the manner prescribed by law and the rules of said superior court relating to appeals from inferior courts, and the matter shall be tried anew in said superior court. The judgment rendered in the superior court in such matters shall be final. Each superior court held in any county of the state in which there are any reclamation or swamp-land reclamation districts shall make rules regulating appeals in the cases hereinbefore mentioned; and the clerk of the board of supervisors shall, upon a notice of appeal and undertaking on appeal being filed with him, transmit the same, and all papers and documents used on the hearing before said board, to the clerk of the superior court in and for said county, who shall thereupon file the same without receiving any fee therefor.

§ 3. This act shall take effect and be in force from and after its passage.

§ 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

The foregoing statute evidently repeals that of 1880, 119, ch. CIX, and which related only to orders "forming" districts.

RECLAMATION DISTRICTS—ASSESSMENTS.

To facilitate the equalization of assessments in reclamation districts.

(Stats. 1881, 70, ch. LIX.)

§ 1. Whenever, under the provisions of section three thousand four hundred and seventy-seven of the Political Code, the purchasers from the state of lands included in any reclamation district have been credited with payment in full for such lands, the trustees of such district may in their discretion allow a credit of one dollar per acre on all lands assessed in such districts for reclamation purposes, the title to which lands has not been derived by purchase of the same from the state as swamp and overflowed lands; such credit to be given on any assessment heretofore made and remaining unpaid, or on any future assessment where the owner of such lands has not theretofore received such credit, whether judgments for the payment of such assessments have been recovered or not; provided, that no such credit shall be given or allowed, or agreed to be given or allowed, until such person shall have paid all assessments levied on such lands, with interest thereon at the rate of ten per centum per annum from date of delinquency, and all judgments therefor in full, less the amount of such credit.

§ 2. This act shall take effect immediately.

RECLAMATION DISTRICTS—BONDS.

To provide for the issuing of bonds by reclamation districts, and the disposal thereof for reclamation and other purposes, and their payment by taxation upon the property situated in such reclamation districts.

(Stats. 1895, 197, ch. CLXXIV.)

§ 1. Whenever in the opinion of the board of trustees of any reclamation district now formed, or hereafter to be formed, under any law of this state, the cost of the works of reclamation according to the plans thereof will be too great to be raised by assessments as provided in the Political Code, said board of trustees shall order a special election to be held at some place in said district to be designated by said board of trustees, at which said special election shall be submitted to the owners of land in said district the question whether or not the bonds of said district shall be issued in an amount necessary to construct said works of reclamation, which said amount shall be estimated by said board of trustees, and stated in the order for such special election.

§ 2. Notice of such special election must be given by the board of trustees by posting notices thereof in at least three public places in the district, at least twenty days prior thereto, and also by publication for the same time in some newspaper published in each county in which any portion of said district may be situated, if there be a newspaper published in each of such counties, and if there is no newspaper so published, then by such publication in each county in which there is a newspaper published, and such notice must specify the time and place of holding such election, the amount of bonds proposed to be issued, and the names of three landholders of the district to act as a board of election.

§ 3. At such election each holder of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each

dollar's worth of real estate owned by him in the district, the value thereof to be determined from the next preceding assessment roll of the county where the same is situated; and the board of trustees of the district shall, prior to the election, procure from the assessor of each county where any portion of the district is situated a list, certified by such assessor, containing a description of all the land of the district situated in such county, the name of the person to whom each tract is assessed, and the value thereof as appears from the assessment roll of said county, which said list shall be furnished to and be used by the said board of election in determining the number of votes each voter is entitled to cast. No person shall vote by proxy at such election, unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified as grants of real property, and filed with the board of election. The ballots cast at such election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the name of the person casting the ballot, with the number of votes cast by him; and a list of the ballots cast shall be made by the board of election, containing the name of the voter, and if the ballot be cast by proxy, the name of the person casting it, the number of votes cast, and whether the same be cast for or against the issuing of the bonds.

§ 4. If the persons, or any of them, appointed and specified in the notice of election as the board of election fail to attend at the time and place appointed for the election, the voters present at the time for opening the polls may appoint any landholder of the district then present to fill the place of any absent member thereof. Each member of such board of election must, before entering upon his duties as such, take an official oath as such member of the board of election, which said oath may be administered by any officer authorized to administer oaths, or by any landholder in the district. The polls shall be kept open for the reception of votes from ten o'clock a. m. until four o'clock p. m. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and forward a certificate, showing the number of votes cast for and against the issuing of bonds, to the board of supervisors of the county where the district was formed, and deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the said board of trustees all ballots cast at such election, and all documents and papers used at such election.

§ 5. If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of trustees of the district shall cause bonds in the amount stated in the order for election to be issued and placed in the custody of the treasurer of the county in which the district was formed. Said bonds shall be of the denomination of one hundred dollars each, shall be negotiable in form, signed by the president of the board of trustees of the district, and the chairman of the board of supervisors of said county, and attested by the clerk of said board of supervisors, and the seal of said board of supervisors, shall be numbered consecutively as issued, and bear date at the time of their issue, and shall express on their face that they were issued by authority of this act, stating its title and date of approval, and the date of the election at which their issuance was authorized. Said bonds shall bear interest at the rate of seven per centum per annum, payable semiannually on the first day

of January and the first day of July in each year, at the office of said county treasurer, upon the presentation of the proper coupons therefor. Coupons for each instalment of interest shall be attached to said bonds, and shall be numbered, signed, and attested, in the same manner as the bond. The principal of said bonds shall be paid as follows, to wit: Ten per centum of the whole amount of bonds issued, according to their consecutive numbers, shall be paid in ten years from the date of their issue, at the office of said county treasurer, and ten per centum thereof each succeeding year thereafter, until all are paid. If any bond shall not be presented for payment when the same becomes due, it shall cease to draw interest; but if presented at such time, and not paid for want of funds, the said county treasurer shall so indorse it, and thereafter such bond shall draw interest until paid, at said rate of seven per centum per annum, payable semiannually.

§ 6. The treasurer of said county shall place the bonds prepared pursuant to this act to the credit of said district, and may at any time sell any of said bonds for the best price obtainable therefor, but in no event for less than the face value of said bond, and the accrued interest thereon. Any money derived from the sale of said bonds by said county treasurer shall be placed in the treasury to the credit of said district, and a proper record of such transaction be placed upon the books of said treasurer.

§ 7. The board of trustees of said district may draw orders upon the said county treasurer, payable in bonds or money in the proportion and to the amount therein named, to pay for labor or services performed for, or materials or property furnished to, said district, for the purpose of constructing the reclamation works thereof, and the expenses necessarily incident to maintaining the same, and the contingent expenses of said district, which said orders shall be approved by the board of supervisors of the county where such district was formed, and thereafter be paid by said treasurer in the manner therein provided for if such bonds or money then remaining in said treasury to the credit of said district be sufficient to pay the same.

§ 8. The principal of said bonds, and the interest thereon, shall be paid by revenue derived from a tax levied upon the assessable real property of the district, and the board of supervisors of the county wherein said district was formed, at the time of making the levy of taxes for county purposes, must levy a tax for that year, upon the taxable real property in such district, sufficient to pay the interest which may become due upon said bonds during such year, and if any portion of the principal of said bonds will become due during such year, then also in an amount sufficient to pay such portion of said principal. All taxes so levied shall be computed and entered on the assessment roll of the county where such land may be situated, by the county auditor, and collected by the tax collector, at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of said district.

§ 9. When such district is situated partly in different counties, the assessor of said county, or counties, other than the county where the district was formed, and in which any portion of such district may be situated, shall, prior to the time when the board of supervisors meets to make the levy for county

purposes in each year, certify to the board of supervisors of the county where such district was formed, a statement of the total value of all the taxable real property of said district, situated in his county; and when such board of supervisors shall have determined the rate of taxation necessary to be levied upon such property the clerk of said board of supervisors shall certify the same, under the seal of said board, to the auditor of any county other than the county where such district was formed, and such auditor shall thereupon compute the tax and enter the same upon the assessment roll of said county. When any taxes shall have been collected under any of the provisions of this act, and placed in the treasury of any county other than the one in which said district was formed, the treasurer of such county must, when requested so to do by the board of trustees of said district, forward all money in such treasury to the county treasurer of the county in which such district was formed, who shall receive and receipt for the same, and place such money in the treasury of such county to the credit of said district.

§ 10. No assessor, tax collector, treasurer, or clerk shall receive any fee for any service required to be performed by them under the provisions of this act. All expenses necessarily incurred in carrying out the provisions of this act shall be paid out of any money to the credit of the district for which the services are performed in the treasury of the county where the district was formed, upon the order of the board of trustees of said district, approved by the board of supervisors of said county.

§ 11. This act shall take effect and be in force from and after its passage.

RECLAMATION DISTRICTS—DISSOLUTION.

Providing for the dissolution and annulment of swamp and overflowed land reclamation districts and protection districts for non-user of corporate powers.

(Stats. 1899, 13, ch. XVI.)

§ 1. All swamp and overflowed land reclamation districts and protection districts heretofore organized under any law of this state, which have, for more than five years, failed or neglected to use their corporate powers, and are free from debt, or against which all claims are barred by the provisions of the Code of Civil Procedure of this state, may be dissolved and annulled by the judgment of a court of competent jurisdiction on proper proceedings had therefor. The action or proceeding may be brought against said district by any person owning lands therein. The summons shall be served upon a majority of the last elected and acting trustees of the district, if living; if not living, then it may be served generally by publication.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

See KERR'S CYC. POL. CODE § 3493.

RECLAMATION DISTRICTS.

Subjecting certain reclamation districts in the state to the provisions of the Political Code.

(Stats. 1885, 77, ch. CII.)

§ 1. All reclamation districts, now legally existing in the state, which were formed under the provisions of any statute of the state prior to the first day of January, eighteen hundred and seventy-three, which are now, and have been ever since their creation, prosecuting the objects for which they were created, shall, after this act takes effect, be subject to the provisions of the Political Code of the state relating to reclamation districts for reclamation purposes, the same as though such districts had been formed and created under the provisions of article two of said code, relating to "swamp and overflowed, salt-marsh, and tide lands"; provided, that nothing in this act shall affect any proceeding that shall have been already commenced for the levy or collection of assessments in such districts when this act takes effect; nor shall it affect any act done or performed in relation to the affairs of the districts prior to said last-mentioned date, nor the indebtedness of the districts theretofore incurred.

§ 2. This act shall take effect immediately.

RECLAMATION DISTRICTS—FUNDING OF DEBTS.

To provide for the funding of the indebtedness of the reclamation and levee districts of the state.

(Stats. 1871-2, 835; ch. DLXX; amended 1873-4, 237, ch. CLXXIV; 1873-4, 585, ch. CCCCXIII; 1875-6, 888, ch. DXCIV.)

§ 1. The board of supervisors of Sutter County shall be ex officio members of and constitute a board, to be known as reclamation fund commissioners, who shall provide an official seal, and have the powers and perform the duties herein-after provided. The chairman of the board of supervisors shall be president of the said board of reclamation fund commissioners, and the county clerk shall act as clerk of said board. They shall have an office at the county seat of Sutter County. [Amendment, Stats. 1873-4, 585.]

§ 2. Whenever in any reclamation district the trustees, or the owners of the land in case there be no trustees, or the engineer of any levee district, have reported or may hereafter report to the board of supervisors the plans and estimates of the cost of the works of reclamation therein, or whenever in such districts assessments have been levied and paid, in whole or part, or warrants drawn by the trustees or owners of the land and approved by the board of supervisors are outstanding, the board of supervisors by whom such district was formed shall cause a notice to be published for three weeks, in a newspaper published in the county or counties in which the district is situated, or if there be none such, in a newspaper of general circulation in such county or counties, calling a meeting of the landowners therein, stating the time and place of such meeting, and that the question will then and there be submitted whether the estimated cost of the work of reclamation shall be provided for by the issue of bonds in pursuance of this act. In case of a district where assessments have been levied and paid, in whole or part, or where such warrants are outstanding, the notice shall state that the question will be submitted whether bonds shall be issued in pursuance of this act for funding such assessments paid and such warrants outstanding. At such meeting the president of the board of supervisors shall preside, and the clerk of the board shall act as secretary; and the question as above stated shall

be determined by a vote of the majority in acreage of the landowners of the district. The minutes of such meeting shall be filed among the records of the said board of supervisors.

§ 3. If it be determined that bonds shall be issued for any of said purposes, the said president of the board of supervisors shall transmit to the reclamation fund commissioners a certificate, under the county seal, stating that the landowners in reclamation or levee district number — (designating its proper number), had determined that bonds of the district should be issued in pursuance of the provisions of this act, the county or counties, in which the district is situated, and the total estimated cost of the works of reclamation. And in case the bonds are to be issued for funding assessments paid, or warrants outstanding, the said certificate shall state, in addition, the total amount of assessments paid and warrants outstanding in said district, and any further estimated cost of reclamation reported in said district, to the board of supervisors; provided, that all contracts let after the passage of this act for the purpose of reclamation in any of the districts that shall vote to avail themselves of the provisions of this act, shall be let to the lowest responsible bidder; and for that purpose the trustees of the district shall give thirty days' notice in some newspaper published in a county in which the district or some part thereof is situated, if there be one; but if there be none, then in some newspaper of general circulation in the county or counties in which the district is situated, that they will receive bids for the construction of the works in accordance with the plans and specifications of said district, and stating the time and place where such bids will be received and opened; and they will award the contract to the lowest bidder who will give good and sufficient bonds for the performance of the same. After the contract has been so awarded, the trustees shall proceed with the reclamation in all respects under the provisions of the law under which the district is organized; provided, that the trustees may reject any and all bids, if by them deemed too high, and again may give notice, in the same manner as herein provided.

§ 4. The said certificates shall be filed in the office of the said reclamation fund commissioners, who shall thereupon cause to be prepared bonds of the said district to an amount not exceeding the estimated cost of the works of reclamation, or the aggregate amount of assessments paid and outstanding warrants therein, and in any further estimated cost of reclamation reported in said district to the board of supervisors; provided, no issue of bonds shall exceed six dollars per acre in the aggregate, except that in district number forty-one and Twitchell Island district; Grand Island district shall not exceed fifteen dollars per acre, and in Sherman Island district twenty-five dollars per acre. And the principal and interest of said bonds shall be payable out of the special fund hereinafter directed to be created.

§ 5. The bonds shall designate the reclamation or levee district by its proper number; be issued in sums of not less than five hundred dollars each; be made payable twenty years after date, and bear interest at eight per centum per annum, payable on the first day of January and July of each year. The principal and interest shall be made payable in gold coin of the United States, at the office of the state treasurer. The bonds shall be numbered and bear the same date, although issued at different times, and be signed by the reclama-

tion fund commissioners, and have their seal affixed thereto. Coupons for the interest shall be attached to each bond, so that they may be removed without mutilation thereof, and shall be signed by the president of the fund commissioners. Said bonds shall express on their face that they are issued by authority of this act, stating its title and date of approval. [Amendment, Stats. 1873-4, 585.]

§ 6. The expense of preparing said bonds and other necessary expenses shall be paid by the district in the same manner as other indebtedness.

§ 7. The "Reclamation Fund Commissioners" are hereby authorized and required to apply said bonds of the district valued at par to the funding, by receiving in exchange therefor at par all certificates of assessments paid in such district, with legal interest thereon from the date of payment, and also all outstanding warrants which have been approved or issued by the board of supervisors of the county or counties in which the district is situated, with legal interest thereon from their date of registration or presentation for payment at the county treasurer's office. In such funding interest shall be estimated on such assessments and warrants, to the first of January or July next succeeding, and the reclamation fund commissioners shall remove from the bond before delivery all coupons for accrued interest up to that date, and shall cancel the removed coupons as in the case of paid coupons, but adding the word "Unpaid."

§ 8. No bond shall be issued for the fractional part of five hundred dollars; but the reclamation fund commissioners shall issue certificates for such fraction not funded, which shall be transferable by delivery and be funded with legal interest from their date when presented in sums of not less than five hundred dollars or its multiple.

§ 9. To entitle an assessment to be funded, the applicant shall present to the reclamation fund commissioners a certificate from the county treasurer, stating the name of the person by whom, and the number of the district in which the said assessment was paid, its amount, and the date of its payment. The bonds shall be issued to the legal holders of such certificates or warrants upon their being surrendered in exchange for said bonds; and they shall be canceled when so funded by that word being written on their face and signed by the president and secretary of the reclamation fund commissioners; provided, that if the person who paid the assessment shall have subsequently sold or contracted to sell the land, then and in such case the bonds shall be issued to the purchaser of the land.

§ 10. The reclamation fund commissioners shall keep records of all such bonds issued, showing the number, date, and amount, the name of the person to whom, and the number of the district for which each bond was issued, and describing the certificates or warrants so funded, and open and keep an account with the district therefor; and shall transmit monthly to the state treasurer a list of such bonds issued during the preceding month; and he shall enter such lists in proper books to be kept in his office.

§ 11. For the purpose of raising funds for the payment of the principal and interest of said bonds, the board of supervisors of the county who approved the formation of the district are hereby authorized and directed, immediately

after the determination by the landowners in favor of the issue of bonds as hereinbefore provided, to appoint three competent persons, residents of the county or counties in which the district is situated, and interested neither directly nor indirectly in the lands of the district, as "Assessment Commissioners," and shall issue to each of them a certificate of appointment as in cases of county officers.

§ 12. Before proceeding to discharge their duties, each of said commissioners shall subscribe an oath, indorsed in his certificate of appointment, which shall be filed in the office of the clerk of the county in which he resides, that he has no interest, direct or indirect, in the lands within the said district, and that he will to the best of his ability, without fear or favor, perform all the duties required by this act. Their compensation shall be fixed by the said board of supervisors at the time of their appointment, not to exceed five dollars per day for the time necessarily employed, and shall be paid, together with any necessary expenses in the performance of their duties, by the trustees of the district or by the owners of land therein, if there be no trustees, in the same manner as other claims against the district are paid.

§ 13. The said commissioners, immediately after being qualified, shall give notice by posting the same for not less than twenty days, in three public places within the district, and by publication in a newspaper, if there be any published in the county or each of the counties in which the district is situated, stating that on a day and hour, and at a place to be named in said notice, they will hold a meeting to determine the amount to be charged on each forty-acre tract or lot as known by the United States system of surveys within the district (designating its number), for the benefits received or to be received from the works of reclamation therein, so as to furnish a basis by which the lands of the said district may be assessed to raise the amount requisite to pay the principal and interest as they may become due on the bonds of the said district, and that all persons interested in said lands will then be heard.

§ 14. The commissioners shall meet, in pursuance of such notice, and shall continue in session for not more than thirty days, and within ten days thereafter they shall prepare a list, to be entitled Assessment List of Reclamation District Number —— (designating its proper number, which shall contain a description of each forty-acre tract or lot in said district, as known by the United States system of survey, the number of acres in each tract or lot, the names of the owners thereof, if known, or if not, then stating them as unknown, and the amount, in United States gold coin, to be charged on each of said forty-acre tracts or lots, which amount shall be ascertained by apportioning the whole cost of the work of reclamation, according to the benefits which each of said tracts or lots has received or may receive from such work. The said lists shall be signed by the commissioners and filed in the office of the county clerk. In case the district be situated in more than one county, separate lists shall be made of the tracts or lots situated in each of said counties, designating on the list the county for which it is made, and be filed in the office of the county clerk of the respective counties. On the filing of said lists, the county judge shall make an order fixing a day for the hearing of objections thereto, which shall not be less than thirty days from the date of the filing of said lists in the county clerk's office, and the clerk shall publish

said order in a newspaper published or of general circulation in the county, for three weeks preceding the day of hearing. At such hearing, upon good cause shown, the said judge may alter any or all of the assessments charged on the lands in said lists, and his decision shall be final. The county clerk shall enter on the list any alterations so made by the order of the county judge, and shall thereupon deliver the same to the county auditor, who shall make a copy of said lists as revised by the county judge, and transmit the same to the reclamation fund commissioners. And be it further enacted, that no lands shall be included without the consent of the owner, in any reclamation district, or subject to the conditions of this act, except lands that are actually bona fide swamp and overflowed and unfit for cultivation without such reclamation, as was contemplated by and expressed in the act of Congress of twenty-eighth of September, eighteen hundred and fifty, granting swamp and overflowed lands to the several states. And be it further enacted, that after the final location of the levees in any district, the assessment commissioners, appointed in accordance with section eleven of the act to which this is amendatory and supplemental, shall meet and correct the assessment list, and they shall strike from the assessment lists all tracts or lots, or parts of tracts or lots of land that are outside of said levees. Also, all lands in said district which have been patented by the United States to homestead and pre-emption settlers, and which have never been and are not now subject to overflow, and are in no way benefited by any reclamation, as proposed in said district. And the tracts, or parts of tracts, or lots, so stricken from said lists, shall be in nowise responsible for the costs of reclamation of the said district. Nor shall any proceeding to collect or enforce the collection of any assessment or charge thereon be valid or effective, for any purpose whatever. Nor shall any officer be empowered, in any manner, to enforce the collection of any charges or assessments thereon, and should any officer proceed to enforce, in any manner, any of the provisions of this act, as to the lands situated outside of said levees, his or their acts shall be wholly void, and shall not create any cloud on the title to the said lands outside of said levee. But said lands may be included in other reclamation or levee districts, the same as if they had not been included in the one from which they were stricken; provided, however, that nothing in this act contained, shall be deemed to exclude from its operation land derived from the Mexican government, if actually swamp and overflowed land. [Amendment, Stats. 1873-4, 237.]

§ 15. The reclamation fund commissioners shall, on the first Monday of March, and every year thereafter until the said bonds are all paid, estimate the rate of assessment which it shall be necessary to levy on the aggregate of amounts charged on the tracts or lots described in the said list or lists, in order to raise the amount sufficient to pay the interest that is due or to become due in the ensuing year, and such parts of the principal of the said bonds as is hereinafter provided; and they shall transmit a certificate to the auditor or auditors of the counties in which the district is situated, stating the rate of assessment to be levied upon the amount charged on each tract or lot described in the list filed in his office, and directing him to prepare, within ninety days, a copy of said lists, and to enter thereon, opposite to each tract or lot therein described, the amount of assessment to be collected from the owner or claimant

of each of said tracts or lots at the rate indicated; provided, the auditor of Sutter County shall have sixty days after the passage of this act to prepare a copy of the lists for levee district number five, and to enter the amount of assessments levied for the district by the reclamation fund commissioners on the first Monday of March, eighteen hundred and seventy-five, and shall, within the said sixty days, sign the same and file it in the office of the county treasurer, who shall note on said lists the date of filing; and the assessment shall thereafter be due and payable, and shall be collected, in the same manner as though the lists had been filed with the county treasurer at the proper time in eighteen hundred and seventy-five; provided, that nothing in this act shall be so construed as to legalize any assessment or delinquent assessment heretofore made in district number five, Sutter County, nor in any reclamation or levee district in any county in this state, nor shall this act be so construed as to legalize any order of the board of supervisors, or board of funding commissioners, or any act of the assessment commissioners in district number five, Sutter County, nor in any district in this state. [Amendment, Stats. 1875-6, 888.]

[The amendatory act of 1875-6 also contained the following section: “§ 2. Coupons shall be received by the county treasurer in payment for the assessments levied to pay the interest on outstanding bonds, provided said coupons shall be due or become due within the fiscal year for which the assessment was levied; and in case assessments are paid in coupons, the county treasurer shall turn them over to the state treasurer, who shall cancel them in the same manner as if he had redeemed them.”]

§ 16. The rate to be estimated by the reclamation fund commissioners shall be such as for the first ten years from the date of the bonds, shall be sufficient to raise the annual interest on the outstanding bonds (allowance being made for cost of collection), and the rate shall be such, for the ensuing ten years, as shall be sufficient to raise the annual interest, and the following percentage of the principal of the whole amount of bonds issued or outstanding, to wit: for the eleventh year, five per centum; for the twelfth year, six per centum; for the thirteenth year, seven per centum; for the fourteenth year, eight per centum; for the fifteenth year, nine per centum; for the sixteenth year, ten per centum; for the seventeenth year, eleven per centum; for the eighteenth year, thirteen per centum; for the nineteenth year, fifteen per centum; and for the twentieth year, sixteen per centum. [Amendment, Stats. 1873-4, 585.]

§ 17. The county auditor, after making the entries on the copy of the assessment list, as hereinbefore provided, shall sign the same and file it in the office of the treasurer of the county, who shall note on said list the date of filing, and the assessment shall thereupon be due and payable, and become a lien on each and every tract and lot described in the said list.

§ 18. The said county treasurer shall thereupon give notice by publication in a newspaper published or of general circulation in the county that the assessment list of reclamation district number — (designating its proper number) has been filed in his office, and the date of the filing; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday of September ensuing the same will become delinquent and be returned to the tax collector of the county for collection. He shall note on the list all

assessments paid, and if at such time all the assessments have not been paid, he shall return the list to the tax collector of the county, who shall proceed to collect such delinquent assessments, with five per centum thereon, and pay over the same to the county treasurer in the same manner as state and county taxes are collected and paid.

§ 19. The assessments so collected shall be paid to the state treasurer on or before the twentieth day of December, in each and every year, in the same manner that state taxes are paid; and he shall place the money to the credit of a fund, to be known as the interest and sinking fund of reclamation district number — (its number being designated); and he is hereby authorized and directed to pay the principal and interest of said bonds of that district, as they become due and payable, out of such fund, which is hereby pledged for that purpose. In case any surplus remains after payment of coupons and the redemption of all outstanding bonds, the same shall be paid to the treasurer of the county in which the district was formed, and shall be placed to the credit of that district. [Amendment, Stats. 1873-4, 585.]

§ 20. Whenever there shall be in the interest and sinking fund of any district a surplus of three thousand dollars or more over and above the interest to be paid in that year, the reclamation fund commissioners shall give notice for thirty days in one or more newspapers published or of general circulation in the county or counties in which the district is situated, and in a newspaper of general circulation in the state, stating the amount of such surplus, and that on a day and hour to be named therein sealed proposals will be received at his office for the surrender of bonds of said district (designating its number). At that time the said reclamation fund commissioners, or a majority of them, shall open the proposals and accept the lowest bids at a rate not exceeding par and accrued interest; provided, that they may reject any or all proposals and give another similar notice; provided, also, that if proposals are not offered at par or less sufficient to exhaust the amount on hand applicable to redemption, the reclamation fund commissioners shall publish for thirty days a notice in a daily newspaper published in the city of Sacramento and another in San Francisco having general circulation in the state, that they will redeem bond or bonds of the reclamation district (designating its number), commencing with the highest numbers and giving the amounts, and that at the expiration of ninety days from the date of the notice if said bonds are not presented for redemption the interest thereon will cease. From and after that time no interest shall be allowed on such bonds.

§ 21. Whenever any bond or coupon is paid, the state treasurer shall write or stamp the word "Canceled" and date of payment on its face, and sign his name thereto. [Amendment, Stats. 1873-4, 585.]

[The amendatory act of 1873-4 also contained the following seven sections:]

[§ 21a.] § 7. When the owner of any tract of land in any reclamation or levee district desires to pay the amount due from said tract of land for the payment of outstanding bonds of the district, he may do so, either by paying the amount in United States gold coin, or he may surrender bonds of the district at par value, with the unpaid coupons attached, equal to the amount of the indebtedness of said tract to reclamation fund commissioners. In ascertaining the amount due from said tract, the commissioners shall compute the

interest thereon to the next succeeding July or January first, as the case may be; and in case payment is made by surrender of bonds, the coupons due the next succeeding July or January first, shall be received in payment at par.

[§ 21b.] § 8. Upon the payment of any money, as provided by the foregoing section, the commissioners shall pay the same to the state treasurer, to be by him placed to the credit of the interest and sinking fund of said district, to be used exclusively for the redemption of bonds, in the same manner as provided for in other cases; in case bonds are surrendered, then the commissioners shall turn them over to the state treasurer, who shall cancel them in the same manner as in case of redemption.

[§ 21c.] § 9. The reclamation fund commissioners shall notify the auditor of the county in which said district is located, that payment has been made upon certain tract or tracts of land, describing each forty-acre tract, and he shall thereupon strike such tract or tracts of land from the assessment list of said district, after which said land shall be in nowise responsible for the payment of the then outstanding bonds of said district, or the interest thereon.

[§ 21d.] § 10. The reclamation fund commissioners, created by the act to which this act is amendatory and supplemental, are hereby required to turn over all books, papers, blanks, etc., to the commissioners created by this act, and pay to the state treasurer all moneys remaining in their hands; the money so paid shall be placed by him to the credit of the interest and sinking fund of levee district number five, Sutter County.

[§ 21e.] § 11. The board of supervisors, acting as a board of reclamation fund commissioners, shall, within six months from the passage of this act, estimate the rate of assessment which it will be necessary to levy on the tracts and lots within the said district number five, and to pay all the unpaid indebtedness of the board of commissioners acting as such, under the act to which this is supplementary; and they shall levy a tax upon all of said land and lots to pay said indebtedness, and the said assessment shall be a lien upon said lands and lots, the same as all other assessments under this act and the act to which this is supplementary; and all the provisions of said act, in regard to the collection of assessments, are hereby made applicable to the assessments in this section provided, and the said indebtedness shall be paid as provided in the act to which this is supplementary.

[§ 21f.] § 12. The act entitled an act to provide for funding the indebtedness of the reclamation and levee districts of the state, approved March thirtieth, eighteen hundred and seventy-two, is hereby repealed, except in so far as it applies to levee district number five, in Sutter County; but as to that district it shall remain in force, as hereby amended and supplemented.

[§ 21g.] § 13. Nothing in this act, or in the act of which it is amendatory, shall be construed to affect or cure any defects in or validate any act or proceeding in the formation of any levee, reclamation, or swamp-land district.

§ 22. The county treasurer shall be entitled to receive and retain one half of one per centum out of the moneys received by him for assessments paid under the provisions of this act in each district.

§ 23. In case the estimates in any district formed or to be formed shall be

found insufficient to meet the cost of the works of reclamation therein, or repairs to such works from time to time required, a further amount of bonds of said district may be issued on additional estimates to be reported to the board of supervisors of the county by whom the formation of the said district was approved, for the amount of such estimates, and the same proceedings shall be had in reference to the issue of such bonds, the levy and collection of assessments for the payment of the principal and interest, the amount required to pay said compensation and expenses thereof, and the application of the moneys arising therefrom, as are hereinbefore provided; provided, that the assessment to raise moneys for the payment of the principal and interest of such bonds shall always be levied on the basis fixed in the assessment list provided for in section fourteen of this act; and that the aggregate of all bonds issued under this act shall not exceed the actual cost of reclamation, nor in any event exceed six dollars per acre, except that in district forty-one and Twitchell Island district, and Grand Island district, bonds may be issued not to exceed fifteen dollars per acre; and in Sherman Island district not to exceed twenty-five dollars per acre; provided, also, that when the determination in any district has been in favor of the issue of bonds, the question of any further issue shall again be submitted to the landowners; provided, that the provisions of this act shall not apply to any lands in the counties of Siskiyou, Lassen, Plumas, and Shasta.

§ 24. Nothing in this act shall be so construed as to make the state, or any county in this state, liable for the payment of the principal or interest of any bond issued in pursuance of this act.

§ 25. If at the time fixed by the county judge provided for in section fourteen of this act for hearing objections to the assessment lists, the owner or owners of any portion of land included in the district shall give notice in writing that he prefers to pay money for the assessment made upon his said land, or that he does not desire to have the assessments already paid upon his land funded under the provisions of this act, the land owned by him shall be exempt from the provisions of this act, and shall not be subject to any liability or lien by reason of any proceedings under this act; provided, he shall pay to the county treasurer the amount found due from said tract of land as ascertained by the assessment commissioners and corrected by the county judge, in instalments, as the work of reclamation progresses, as required by the trustees of the district. In case he fails to pay said assessments or any portion thereof within thirty days after receipt of notice that said instalment is due, then the trustees shall file a list of such delinquent assessment with the county tax collector, who shall proceed to collect said assessment in the same manner as state and county taxes are collected, and pay the same over to the county treasurer.

§ 26. Reclamation district number two, in Sacramento County, and levee districts numbers one, two, three, and six, in Sutter County, are exempt from the provisions of this act.

§ 27. This act shall take effect from and after its passage.

See tit. **Levee and Protection Districts**, Stats. 1897, 424, ch. CCLXVI.

See, generally, tits. **Lands—Public; Levee Districts; Protection Districts**.

It is held that the Act of 1868, 507, ch. CCCCXV, relating to the disposal of state lands, repealed all former acts on the same subject.—*Kings County vs. Tulare County*,

119 Cal. 509-512, 51 Pac. Rep. 866; *People ex rel. Thisby vs. Reclamation Dist.*, 130 Cal. 607-610, 63 Pac. Rep. 27.

Part II of Act of 1868 contained provisions for forming and managing reclamation districts for swamp-lands, and it was held, in *Reclamation Dist. vs. Goldman*, 61 Cal. 205, that the Political Code had not repealed that portion of that act, in the matter of assessments or taxes, citing subd. 25, § 19, Pol. Code.

That statute, however, has now been carried into the Political Code.—*Laguna D. Dist. vs. Chas. Martin Co.*, 144 Cal. 209, 211, 77 Pac. Rep. 933; *San Francisco Sav. Union vs. Reclamation Dist.*, 144 Cal. 639, 644, 79 Pac. Rep. 374.

The Act of 1885, 77, ch. CII, provides that all reclamation districts then legally existing, and which were formed under the provisions of any statute of this state prior to the first day of January, 1873, shall thenceforth be subject to the provisions of the Political Code, relating to reclamation districts, the same as though such districts had been organized thereunder, except that assessment proceedings already commenced, or acts performed, or indebtedness incurred, prior to said date, were unaffected by the act.

The following special legislation is noted:

Legalizing acts of Reclamation District 108, Yolo County, 1871-2, 776; relating to interest on warrants, same district, 1871-2, 696 (repealed, 1903, 53); *Mormon Slough District*, San Joaquin County, 1871-2, 709; *Swamp-Land Dist. No. 70*, Sutter County, 1871-2, 719; reorganizing same, 1877-8, 580; amending last act, 1891, 62. Relating to creation of districts in Solano and Yolo Counties, 1873-4, 602; district 124, Colusa County, 1873-4, 957; relating to assessments, *Sacramento County*, 1873-4, 885 (was held superseded by County Government Act of 1897, in *Lynch vs. Butte County*, 102 Cal. 446, 36 Pac. Rep. 806).

The statute gave compensation to district attorneys for collecting.—Legalizing, etc., districts 209, 223, San Joaquin County, 1875-6, 281; relating to district 205, *Sacramento County*, 1877-8, 911 (repealed, 1880, 25); creating district 317, *Sacramento County*, 1877-8, 562; creating district 252, *Sacramento County*, 1877-8, 531; creating district 254, *Sacramento County*, 1877-8, 909; district No. 54, in same county, legalized, 1877-8, 230. Union Island districts 1 and 2, San Joaquin County, were created, 1903, 37.

Stats. 1871-2, 835; 1873-4, 585.—*Pennington vs. Baehr*, 48 Cal. 565, 566. § 14—*Hagar vs. Supervrs. Yolo*, 47 Cal. 222, 233.

RECLAMATION DISTRICT NO. 70.

To create a reclamation district, to be called "Reclamation District Number Seventy," and providing for the control and management thereof.

(Stats. 1905, 717, ch. DLII.)

§ 1. A reclamation district is hereby created to be called "Reclamation District Number Seventy," and the boundaries of said reclamation district shall be as follows: Beginning at a point where Butte Slough intersects the Sacramento River, in township sixteen north, range one west, and running thence easterly along the southerly and westerly bank of said Butte Slough to where the same intersects the north line of section twenty-six, township fifteen north, range one east, Mount Diablo base and meridian. Thence south-easterly in a direct line to the northeast corner of the southeast quarter of section thirty-five, township fifteen north, range one east; thence southerly, following the section line to the southeast corner of the northeast quarter of section fourteen, township fourteen north, range one east; thence west to the Sacramento River; thence northerly, following the meanderings of the easterly bank of said river, to the place of beginning.

§ 2. The management and control of said reclamation district is hereby made subject to the provisions of the Political Code of the state of California, and other laws of this state, relative to reclamation districts formed under the provisions of said Political Code.

§ 3. All acts, and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

RECORDER—COUNTY.

To provide for recorders and auditors in certain counties in this state, and to legalize the acts of certain officers.

(Stats. 1863-4, 187, ch. CLXXXVII.)

§ 1. In all the counties of this state where recorders and auditors have not been elected according to the provisions of an act entitled an act concerning offices, approved April twenty-second, eighteen hundred and sixty-three, the county clerks of each of such counties shall be ex officio recorders and auditors, and all the acts heretofore performed by the county clerks of such counties as recorders and auditors are hereby legalized and declared valid; provided, nothing in this act shall apply to the counties of San Francisco, Del Norte, and Sacramento, nor shall those provisions of it which enact that the county clerk or recorder shall be ex officio auditor, or which legalize and confirm any acts as such auditor done or performed since the sixth day of February, eighteen hundred and sixty-four, apply to the county of San Mateo.

§ 2. This act shall take effect from and after its passage.

RECORDS—COURTS, FORMER.

To transfer the records, papers, and business of the courts existing on the thirty-first day of December, eighteen hundred and seventy-nine, in this state, to the courts now existing therein.

(Stats. 1880, 2, ch. IV.)

§ 1. The supreme court shall, for all purposes, be considered the successor of the court of the same name which was abolished on the first day of January, eighteen hundred and eighty, and to have succeeded to all its unfinished business. It shall have jurisdiction of, and shall hear and determine, or otherwise dispose of, all causes, proceedings, appeals, motions, and matters pending on said day in the court superseded by it; and also, of all appeals taken to such court, before or after said day, from judgments or orders of any of the inferior courts abolished by the constitution. From and after the first day of January, eighteen hundred and eighty, the supreme court shall have the custody of all records, books, and papers of the former supreme court, and the same jurisdiction over its judgments, orders and proceedings as if they had in the first instance been rendered, made, or commenced in the present court. All laws relating to the former court shall, as far as applicable, be considered as applying to the present court. All rules of the former court which were in force on the first day of January, eighteen hundred and eighty, and not inconsistent with the constitution, shall continue in force as rules of the present court until altered, abolished, or superseded by the order of the court.

§ 2. The superior court of each county in this state shall, for all purposes, be considered the successor of the district, county, and probate courts thereof, and, in the city and county of San Francisco, of the municipal criminal court and municipal court of appeals, and shall be deemed to have succeeded to all the unfinished business of said courts. The superior courts shall hear, determine or otherwise dispose of, all causes and proceedings which were pending on the first day of January, eighteen hundred and eighty, in the said courts superseded by them, and every motion or proceeding then pending or there-

after made or taken in such causes and proceedings, and of which said courts would have had jurisdiction had they not been abolished; and also, all appeals taken or perfected, before or after said day, from all orders or judgments of justices' and police courts which by law are declared to be appealable. From and after the first day of January, eighteen hundred and eighty, the superior courts shall have the custody of all the records, books, and papers of the said courts superseded by them, and shall have jurisdiction thereof, and of the judgments, orders, and process of said courts; and shall enforce the same and issue process thereon in like manner, and with the same effect, as if they had in the first instance been filed, commenced, rendered, made, or issued in or by the superior court. The superior court of the city and county of San Francisco shall have jurisdiction of, and shall try and dispose of, all indictments for misdemeanor pending in the city criminal court of said city and county, on the first day of January, eighteen hundred and eighty; and such indictments, and all papers and records relating thereto, shall be transferred to the said superior court and become records thereof. Any application, motion, or proceeding, set by the district, county, or probate court of any county, or by the judge thereof, to be heard by such court or judge after the first day of January, eighteen hundred and eighty, may be heard in the superior court of such county, upon the same notice that was required to authorize the hearing thereof in such district, county, or probate court, or by the judge thereof. Any process issued out of any district, county, or probate court of this state before the first day of January, eighteen hundred and eighty, may be served, or the service thereof completed, after said day, in the same manner, and with like effect, as if such courts had not been abolished; provided, that such process shall be returned to the superior court of the county in which it was issued, and any appearance or answer required by such process shall be made or filed in such court.

§ 3. All prosecutions which were transferred or certified for trial to the city criminal court of the city and county of San Francisco, by the police court thereof, and were pending or undetermined on the first day of January, eighteen hundred and eighty, shall be tried and disposed of in the said police court; and all the papers, pleadings, and records relating to such prosecutions shall be transferred to, and deposited with, said police court, and become records and papers thereof.

§ 4. This act shall take effect immediately.

Ex parte Williams, 87 Cal. 78, 83, 24 Pac. Rep. 602; *Smith vs. Hill*, 89 Cal. 122, 128, 26 Pac. Rep. 644.

RED BLUFF—TOWN OF.

An act amendatory of and supplementary to an act entitled an act to authorize the county judge of Tehama County to distribute town lots, held by him in trust for the citizens of the town of Red Bluff, and to issue certificates of title to the inhabitants of said town in accordance with their respective interests, approved March sixth, eighteen hundred and sixty-eight.

(Stats. 1867-8, 107, ch. CXXIX; amended and supplemented 1877-8, 602, ch. CCCCXIV.)

§ 1. All lots embraced within the town site of Red Bluff, now remaining

undisposed of under and pursuant to the provisions of an act entitled "An act to authorize the county judge of Tehama County to distribute town lots, held by him in trust for the citizens of the town of Red Bluff, and to issue certificate[s] of title to the inhabitants of said town in accordance with their respective interests," approved March sixth, eighteen hundred and sixty-eight, shall be disposed of and distributed as follows:

§ 2. As soon as practicable after the act takes effect, the county judge of said Tehama County shall cause notice to be given in some newspaper published in said county, in at least three successive issues thereof, notifying all persons claiming one or more of said lots, or fractional parts thereof, to present their respective claims thereto, at his chambers, within a given time, to be specified in said notice, not less than thirty nor more than ninety days, together with the evidence on which such claim is based.

§ 3. Claimants shall be required to make their application in writing, setting forth the facts in a brief and concise form, showing that the claimant is in the possession, or entitled to the possession, of the premises embraced in his application, and the act or acts, and circumstances, constituting such possession or right of possession. The application must be verified by the oath of the claimant, and must contain sufficient facts, *prima facie*, to prove that the applicant is in, or is entitled to, the possession of the premises claimed.

§ 4. In any case where a certificate of title heretofore issued by the county judge of said county to any portion of said town site is invalid for any reason, the holder of such certificate, his grantee or successor, may make application for a new certificate of title for the land embraced in said invalid certificate, in the same manner and subject to the same rules and conditions as prescribed for other applicants by this act.

§ 5. The board of trustees of the town of Red Bluff are hereby authorized and directed to procure and cause to be made a correct survey and map of the survey of the town site of said town, according to the description in the patent from the United States to the county judge, which said map shall be filed in the office of the county recorder of Tehama County, and thereafter to be the official map of said town site.

§ 6. The provisions of an act entitled "An act to authorize the county judge of Tehama County to distribute town lots, held by him in trust for the citizens of the town of Red Bluff, and to issue certificates of title to the inhabitants of said town according to their respective interests," approved March sixth, eighteen hundred and sixty-eight, not in conflict with the provisions of this act, shall apply to the disposition of the lots to be disposed of and distributed under this act. And this act shall in no wise offset any suits which have been heretofore commenced, and are now pending, to settle individual interests or right of possession to town lots in said town of Red Bluff.

§ 7. After the expiration of the time specified in the notice given by the county judge, provided for by section two of this act, the lots for which no valid application has been presented to said county judge within the time specified in said notice shall be disposed of as follows: Any party or parties desiring to obtain title to one or more thereof shall cause to be published in the Sentinel, a newspaper published in said Tehama County, at least once a week for two successive weeks, a notice stating that such party or parties

intend to apply to the said county judge for such certificate of title. Said notice shall contain a definite description of the premises intended to be applied for. The said application may be made at any time after the first publication of said notice and previous to the issuance of a certificate, and must in all respects conform to and comply with the provisions of section three of this act. If within sixty days after the first publication of said notice, no other notice and application has been given and made by any other party or parties, as prescribed in this section, and if the applicant is entitled thereto, the county judge shall, upon the expiration of sixty days, issue a certificate of said title to said applicant for the premises described in said notice and application. If within sixty days after the first publication of notice of the party or parties who first give notice of intention as aforesaid, there shall be more than one application for the same lot or lots, which notice as aforesaid has been given on the expiration of said sixty days, the county judge shall issue a certificate of title to the applicant deemed by him entitled thereto, and any applicant aggrieved thereby shall proceed according to the provisions of section six of the said act of March sixth, eighteen hundred and sixty-eight, and sections six and seven of said last-named act shall apply to such proceedings.

§ 8. The board of trustees of the town of Red Bluff may, in their discretion, and to the extent that the interest[s] of the town require it, designate from any of the lands or lots which have not been previously disposed of and which are not occupied and claimed in good faith by any person, and set forth and dedicate the same to public uses in such mode and manner as the said board may adopt; and upon an order to that effect being made, the county judge of said county shall, if the proceedings upon which such order is based appear to be regular, issue a certificate to that effect, and file the same with the recorder of said county, and said recorder shall thereupon record it in the proper record of deeds of conveyance of real estate for said county, and thereafter the lands and lots so embraced shall be deemed to be forever dedicated to such public use.

§ 9. Sections eight, nine, ten, eleven, and twelve of said act of March sixth, eighteen hundred and sixty-eight, are hereby repealed.

§ 10. The limitation of one year mentioned in section six of an act to authorize the county judge of Tehama County to distribute town lots held by him in trust for the citizens of the town of Red Bluff, and to issue certificates of title to the inhabitants of said town in accordance with their respective interests, approved March sixth, eighteen hundred and sixty-eight, in respect to aggrieved parties bringing suits in the district court to litigate their rights, shall not apply to minor heirs who have attained their majority subsequent to the issuance of title by said county judge, but in all such cases parties may bring their actions within five years after such minor [heirs] shall have arrived at their majority.

§ 11. All acts or parts of acts in conflict with the provisions of this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

RED BLUFF—TOWN OF.

See tit. Municipal Corporations.

REDDING—TOWN OF.

See tit. Municipal Corporations.

REDWOOD CITY.

See tit. Municipal Corporations.

REMOVAL FROM OFFICE.

See tit. Office—Removal From.

RESTRAINING ORDERS.

See tit. Employers and Employees.

REVENUE.

See tits. Fees and Commissions; Taxes.

REWARDS.

See tit. Governor.

RIO VISTA—TOWN OF.

To change the name of the town of Brazos del Rio, in the county of Solano, to Rio Vista.

(Stats. 1861, 12, ch. XIX.)

§ 1. It shall be lawful for the town heretofore known as Brazos del Rio, to be known as the town of Rio Vista.

RIO VISTA—TOWN OF.

See tit. Municipal Corporations.

RIVERSIDE.

See tit. Municipal Corporations.

RIVERSIDE—COUNTY.

To create the county of Riverside, classify it, define its boundaries, provide for its organization, and the appointment, election of officers, the location of county seat by election, and the adjustment and fulfilment of certain rights and obligations arising between such county and certain other counties.

(Stats. 1893, 158, ch. CXLII.)

§ 1. There is hereby formed, subject to approval by a vote, as in this act provided, out of the southwest part of the county of San Bernardino, and the northern part of San Diego County, a new county, to be known as the county of Riverside, as hereinafter described, which shall rank as a county of the twenty-fourth class until otherwise classified.

§ 2. The boundaries of the county of Riverside shall be as follows, to wit: Beginning at the common corner of the counties of Orange and San Bernardino and the westerly line of San Diego County; thence southwesterly along the line between Orange and San Diego counties to the point of intersection of said line with the township line between township seven south and township eight south, San Bernardino base and meridian; thence easterly along said township line to its intersection with western boundary of Santa Rosa Rancho; thence southerly along the boundary of said rancho to where said

boundary of said rancho intersects the range line between the townships eight south, three west, and eight south, four west; thence south on said range line to the point of intersection of the said line with second standard parallel south; thence east along said parallel to the eastern boundary of the state of California; thence northerly along the said eastern boundary of the state of California to the northeast corner of the county of San Diego; thence westerly along the northerly line of San Diego County to a point where the line between townships one and two south, of San Bernardino base line, intersects such northerly line of San Diego County; thence west along such township line to the northwest corner of township two south, of range one east, San Bernardino base and meridian; thence south two miles to the northeast corner of section thirteen, in township two south, of range one west; thence west seventeen miles to the southwest corner of section eight, in township two south, of range three west; thence north one mile to the northwest corner of said section eight; thence west eight and one half miles to the quarter corner on the south line of section two, in township two south, of range five west; thence north one mile to the quarter corner on the north line of said section two; thence west ten and one half miles to the northwest corner of section six, in township two south, of range six west; thence south to the northern boundary of the Jurupa Rancho; thence westerly along the north boundary of Jurupa Rancho to the northwest corner of said rancho; thence south along the west boundary of Jurupa Rancho to the quarter corner on the west line of section ten, in township three south, of range seven west; thence west to the center of section seven, in township three south, of range seven west; thence south to the quarter corner on the south line of section nineteen, in township three south, of range seven west; thence west to the intersection with the eastern boundary of El Cañon de Santa Ana Rancho; thence southerly along the eastern boundary of said rancho to intersection with the boundary line between Orange and San Bernardino counties; thence southeasterly along the southern boundary of San Bernardino County to the place of beginning; all of said townships and ranges being from San Bernardino base and meridian.

§ 3. The county seat of the county of Riverside shall be located as hereinafter provided.

§ 4. The governor shall, when this act takes effect, appoint five persons, residents and electors of said county of Riverside, as above described, who shall be and constitute a board of commissioners to perfect the organization of said county, a majority of whom shall constitute a quorum. Said commissioners shall meet in the city of Riverside, within ten days after their appointment, and after being duly sworn to faithfully discharge their duties, as prescribed in this act, shall organize by electing from their number a president and secretary. Said commissioners shall have power to fill all vacancies in their number in case of death, resignation, or failure to qualify. Said commissioners shall then divide the new county formed under this act into a convenient number of judicial townships, road and school districts, define their boundaries, and designate the name of each district. They shall also divide the county into five supervisorial districts, to contain, as nearly as practicable, an equal number of inhabitants, and number said districts. They [shall] also establish election precincts in said county. They [shall] also give thirty days' notice by publication in one or more newspapers published in the said county, of

the precincts established, and shall designate the name and boundaries of each precinct, and number and boundaries of each supervisorial district. Said commissioners, their president and secretary, are hereby authorized and required to discharge the same duties as are now required by law of the boards of supervisors and county clerks in the several counties of the state, so far as the same applies to the appointment of election officers, publication of notices and proclamations, holding elections, canvassing returns, issuing certificates, and all things lawful to be done to provide for, conduct, and carry on all elections mentioned in this act. They shall keep a full record of all their proceedings, transmitting to the secretary of state a certified copy thereof, filing the originals, with the original election returns, in the county clerk's office of the county of Riverside, as soon as he shall have been qualified, and thereupon the powers and duties of said commissioners shall cease and terminate.

§ 5. There shall be an election held in said county of Riverside on the first Tuesday in May, A. D. eighteen hundred and ninety-three, at which election shall be submitted to the said qualified electors of said county of Riverside, as herein described, whether there shall be formed and organized the county of Riverside, as herein provided for; and for the purpose of ascertaining the choice of the said electors of said county under the provisions of this act, the ballots used at said election shall have written or printed thereon, "The new county of Riverside—Yes," and "The new county of Riverside—No," and each voter desiring to vote for the establishment and organization of said county of Riverside shall mark a cross (thus, X) opposite the words "The new county of Riverside—Yes," in the manner now required by law, and each voter desiring to vote against the organization of said county shall mark a cross (thus, X) opposite the words "The new county of Riverside—No," in the manner now required by law. Said election shall be conducted, said tickets printed, prepared, and the votes counted in every respect, except as in this act otherwise provided, in accordance with the general law for the election of state, county, and township officers. If at said election two thirds of the votes cast on the question of the organization of said county government shall be "The new county of Riverside—Yes," then the said territory hereinabove described shall be and become the organized county of Riverside, from and after the day upon which the returns of said election shall be ascertained and declared by the said board of commissioners.

§ 6. At the election provided for in section five of this act there shall be chosen by the qualified electors of said county of Riverside, one judge of the superior court of said county, whose salary shall be four thousand dollars per annum, payable at the same time and in the same manner as salaries of the judges of the superior courts of the several counties of the state are now paid; also one district attorney, one county clerk, one county recorder, one auditor, one sheriff, one tax collector, one county treasurer, one county assessor, one county superintendent of public schools, one county surveyor, one county coroner, and one public administrator. There shall be chosen at such election one supervisor for each supervisorial district in said county; provided, that all duly elected and qualified supervisors of the counties of San Diego and San Bernardino, who, at the taking effect of this act, are residents of the county of Riverside, shall hold their offices for the full term for which they were

elected, upon having duly qualified as supervisors of the county of Riverside, for the respective districts in which they reside, as said districts are organized by the action of the board of commissioners provided for in this act. There shall be chosen at said election two justices of the peace and two constables for each of said townships; provided, that all justices of the peace and constables, acting as such at the passage of this act, residents of the county of Riverside, shall hold their offices for the full term for which they were elected or appointed, upon having qualified as justices of the peace or constables of the county of Riverside for the respective townships in which they severally reside, as said townships are organized by the action of the board of commissioners provided for in this act. There shall be chosen at said election three school trustees for each school district; provided, that all school trustees, acting as such at the time of the passage of this act, residents of the county of Riverside, shall hold their offices for the time for which they were elected, upon having duly qualified as school trustees in the county of Riverside for the respective districts in which they severally reside, as said districts are organized by the action of the board of commissioners provided for in this act. All the officers elected at said election, or who qualify or are appointed under the provisions of this act shall enter, immediately after their qualification, upon the discharge of the duties of their respective offices; and all the officers elected at said election or appointed under this act shall hold their offices until the time provided by general law for the election and qualification of such officers of this state, and until their successors are elected and qualified. At said election there shall also be submitted to the qualified electors the question of the location of the county seat for the said county of Riverside; and the place, town, or city in said county receiving the highest number of votes for county seat of said county shall be declared by the commissioners to be, and the same shall be, the county seat of the said county of Riverside. It shall be the duty of the said commissioners to make ample provision, in the preparation and printing of the ticket to be used at said election, for the expression of said electors of said county as to the location and designation of the said county seat for said county.

§ 7. All qualified electors of this state, who have been residents and electors of said territory of the county of Riverside for ninety days preceding the election provided for in this act, shall be qualified to vote at said election. The great registers of San Bernardino and San Diego counties, used at the general election held in the year eighteen hundred and ninety-two, in the territory of the new created county of Riverside, shall be prima facie evidence of the qualifications of the electors. The county clerks of San Bernardino and San Diego counties are hereby directed to furnish the commissioners of the county of Riverside a certificate, under seal, showing the additional names of voters on the great registers of San Bernardino and San Diego counties, registered as residing within the territory forming the county of Riverside since the last great registers of San Bernardino and San Diego counties were printed, and the certificates of the county clerks of said counties, under seal, showing the registration of any qualified voter who resides in the territory forming the county of Riverside, up to the date of election, shall entitle the holder thereof, if otherwise qualified by law, to vote at said election.

§ 8. It shall be the duty of the board of supervisors of the county of River-

side, whose election is by this act provided for, to meet at the county seat of the county of Riverside on the first Monday of the month subsequent to their election, and, having duly qualified, shall organize by the election of one of their number as chairman. Said board shall allow such remuneration to the commissioners, and officers acting for said board of commissioners, as it may think just and proper, not exceeding five dollars per day each; provided, claims are presented therefor in the manner now required by law. Said board shall appoint two freeholders, residents of the county of Riverside, to act as commissioners, whose duty it shall be to meet at the city of San Bernardino, California, within twenty days from the time of their appointment, a like number of commissioners, who shall be appointed by the board of supervisors of San Bernardino County, and one commissioner, to be appointed by the governor of the state of California. Such commissioners shall then jointly organize as a board by electing from their number a chairman and secretary. A majority of said commissioners shall constitute a quorum of said board for the transaction of business. Should any vacancy occur in said board of commissioners by death, resignation, or otherwise, the office so vacated shall be filled by the appointing power which made the original appointment. Any of said commissioners shall have the power to compel, by a citation or subpoena signed by him, the attendance of such persons and the production of such books and papers before said board of commissioners as he may require in performing the duties imposed by this act. It shall be the duty of the sheriff of the counties of San Bernardino and Riverside to execute, in their respective counties, all lawful orders and citations of any of said commissioners, and for any services performed the sheriff shall be allowed the same fees as are allowed for like services in civil cases, and all witnesses attending before said board of commissioners shall be entitled to the same compensation and mileage as is allowed to witnesses in civil cases; provided, that no witness shall be excused from attendance at the time and place mentioned in said order or citation by reason of the failure of the officer making service thereof to tender to said witness his fee in advance. Said board of commissioners shall, immediately after its organization, ascertain the indebtedness of San Bernardino County existing at the time this act takes effect, and also the total value of all property at that time belonging to the said county of San Bernardino. They shall ascertain the assessed value of all property in San Bernardino County as it stood before this act takes effect according to the assessment made for San Bernardino County in the year eighteen hundred and ninety-two, also the assessed value under the same assessment of all property in the territory hereby set apart from San Bernardino County and embraced in the county of Riverside. They shall then find the difference between the amount of indebtedness of San Bernardino County and the value of the property belonging to San Bernardino County at the time this act takes effect, and if such indebtedness exceeds the value of such property belonging to San Bernardino County, the county of Riverside shall pay San Bernardino County a due proportion thereof, to be determined as follows: As said assessed value of the property in San Bernardino County is to the said assessed value of the property in the territory by this act set apart from San Bernardino County, so is the amount of said excess to the amount to be paid by the county of Riverside to San Bernardino County. Said board of commissioners shall then

certify forthwith to the respective boards of supervisors of said counties of San Bernardino and Riverside the amount constituting the due proportion of said excess payable by the county of Riverside, also the value of any property belonging to San Bernardino County at the time this act takes effect which is situated in the county of Riverside. The sum of said ascertained value of said last mentioned property, added to the ascertained proportion of said excess which the county of Riverside is to pay to the county of San Bernardino, shall be an indebtedness from the county of Riverside to the county of San Bernardino. Said property, situated as aforesaid in the county of Riverside, shall, upon settlement therefor as provided in this act, become the property of the county of Riverside, and San Bernardino County shall pay the entire indebtedness of San Bernardino County; provided, the county of Riverside pays to the county of San Bernardino, as herein designated, any proportion thereof that may be found properly to be payable by the county of Riverside. In case said board of commissioners shall find that the value of the property belonging to said San Bernardino County at the time this act takes effect exceeds the indebtedness of said San Bernardino County, the excess shall be apportioned between said counties of San Bernardino and Riverside in the proportions aforesaid; and if the portion of said excess payable to the county of Riverside does not exceed the value of said property belonging to San Bernardino County and situate in the county of Riverside as aforesaid, said portion of said excess shall be deducted from the value of said property situate in the county of Riverside as last aforesaid, and the balance, after deducting said portion of such excess, shall be certified as aforesaid to the said board of supervisors and shall be an indebtedness from the county of Riverside to the county of San Bernardino; but if said portion of such excess is greater than the value of said property situate in the county of Riverside as aforesaid belonging to San Bernardino County, the value of said property last aforesaid shall be deducted from said portion of such excess, and the balance shall be certified as aforesaid to said boards of supervisors, and shall be an indebtedness from San Bernardino County to the county of Riverside, and said San Bernardino County shall pay the same. If, upon the settlement between the counties of San Bernardino and Riverside, as herein provided for, said county of Riverside shall be found to be indebted to San Bernardino County, the money necessary to pay said indebtedness shall be raised by a tax levied upon the property contained in the county of Riverside, and the county of Riverside shall pay the same.

§ 9. Said board shall also appoint two freeholders, residents of the county of Riverside, to act as commissioners, whose duty it shall be to meet at the city of San Diego, California, within twenty days from the time of their appointment, a like number of commissioners, who shall be appointed by the board of supervisors of San Diego County, and one commissioner to be appointed by the governor of the state of California. Such commissioners shall then jointly organize a board, by electing from their number a chairman and secretary. A majority of said commissioners shall constitute a quorum of said board for the transaction of business. Should any vacancy occur in said board of commissioners by death, resignation, or otherwise, the office so vacated shall be filled by the appointing power which made the original appointment. Any of said commissioners shall have the power to compel, by a citation or sub-

pœna signed by him, the attendance of such persons and the production of such books and papers before said board of commissioners as he may require in performing the duties imposed by this act; and it shall be the duty of the sheriffs of the counties of San Diego and Riverside to execute in their respective counties all lawful orders and citations of any of said commissioners; and for any services performed, the sheriff shall be allowed the same fees as are allowed for like services in civil cases; and all witnesses attending before the said board of commissioners shall be entitled to the same compensation and mileage as is allowed to witnesses in civil cases; provided, that no witness shall be excused from attendance at the time and place mentioned in said order or citation by reason of the failure of the officer making service thereof to tender said witness his fees in advance. Said board of commissioners shall, immediately after its organization, ascertain the indebtedness of San Diego County existing at the time this act takes effect, and also the total value of all property at that time belonging to said county of San Diego. They shall ascertain the assessed value of all property in San Diego County, as it stood before this act takes effect, according to the assessment made for San Diego County in the year eighteen hundred and ninety-two; also, the assessed value, under the same assessment, of all property in the territory hereby set apart from San Diego County and embraced in the county of Riverside. They shall find the difference between the amount of the indebtedness of San Diego County and the value of the property belonging to San Diego County at the time this act takes effect, and if such indebtedness exceeds the value of such property belonging to San Diego County, the county of Riverside shall pay San Diego County a due proportion thereof, to be determined as follows: As said assessed value of the property of San Diego County is to the said assessed value of the property in the territory by this act set apart from San Diego County, so is the amount of said excess to the amount to be paid by the county of Riverside to the county of San Diego. Said board of commissioners shall then certify forthwith to the respective boards of supervisors of said counties of San Diego and Riverside, the amount constituting the due proportion of said excess payable by the county of Riverside; also, the value of any property belonging to San Diego County at the time this act takes effect which is situated in the county of Riverside. The sum of said ascertained value of said last mentioned property, added to the ascertained proportion of said excess which the county of Riverside is to pay to San Diego County, shall be an indebtedness from the county of Riverside to the county of San Diego. Said property, situated as aforesaid in the county of Riverside, shall, upon settlement therefor as provided in this act, become the property of the county of Riverside, and San Diego County shall pay the entire indebtedness of San Diego County; provided, the county of Riverside pays to San Diego County, as herein designated, any proportion thereof that may be found properly to be payable by the county of Riverside. In case said board of commissioners shall find that the value of the property belonging to the said San Diego County at the time this act takes effect exceeds the indebtedness of San Diego County, the excess shall be apportioned between said counties of San Diego and Riverside in the proportion aforesaid, and if the proportion of said excess payable to the county of Riverside does not exceed the value of property belonging to San Diego County, and situate in the county of Riverside afore-

said, said portion of said excess shall be deducted from the value of said property situate in the county of Riverside as last aforesaid, and the balance, after deducting said portion of such excess, shall be certified, as aforesaid, to the boards of supervisors, and shall be an indebtedness from the county of Riverside to the county of San Diego; but if said portion of such excess is greater than the value of said property situate in said county of Riverside, as aforesaid, belonging to San Diego County, the value of said property last aforesaid shall be deducted from said portion of such excess, and the balance shall be certified, as aforesaid, to said boards of supervisors, and shall be an indebtedness from San Diego County to the county of Riverside, and said San Diego County shall pay the same. If, upon the final settlement between the counties of San Diego and Riverside, as herein provided for, said county of Riverside shall be found to be indebted to San Diego County, the money necessary to pay said indebtedness shall be raised by a tax levied upon the property contained in the county of Riverside, and the county of Riverside shall pay the same.

§ 10. After the passage of this act no assessment shall be made, nor poll tax nor taxes on personal property be collected by the assessors of San Bernardino or San Diego counties in the territory embraced in the county of Riverside. The assessor of the county of Riverside, who shall be elected at the election herein provided for, shall, within ninety days after he shall have been qualified, assess all the property in the county of Riverside, except as is required to be assessed by the state board of equalization, and collect the poll taxes and the taxes on personal property in said county of Riverside in accordance with the general laws. Within fifteen days after said assessment is completed, the board of supervisors of the county of Riverside shall, in accordance with the general laws, equalize said assessment and levy state and county taxes. Said assessment and levy, and the collection of taxes, shall be as effective as if said assessment and levy were made at the time provided in the general laws; provided, that the general laws relating to the assessment, levy, and collection of taxes are hereby made applicable, so far as possible, to the assessment, levy, and collection of taxes for the county of Riverside for the year eighteen hundred and ninety-three.

§ 11. The board of supervisors of the county of Riverside are hereby authorized when they deem it necessary, to provide suitable books, and contract with some competent persons to transcribe from the records of San Bernardino and San Diego counties such parts thereof as relate to or affect property, or the title thereto, situate in the county of Riverside; and said records, when so transcribed and certified to by the respective recorders of the counties of San Bernardino and San Diego, shall have the same force and effect as such original records for all purposes.

§ 12. All actions or special proceedings (excepting those provided for in sections three hundred and ninety-two and three hundred and ninety-three, Code of Civil Procedure) which shall be pending in the superior courts in the counties of San Bernardino and San Diego at the time of the organization of the county of Riverside, in which the defendants are residents of the county of Riverside, shall be removed to the superior court of the county of Riverside, on motion of any party interested; provided, that no actions commenced for collection of licenses shall be removed from the courts of San Bernardino and San Diego counties.

§ 13. The notaries public of the counties of San Bernardino and San Diego, who are residents of the territory embraced in the county of Riverside at the date of the passage of this act, shall hold their office until the expiration of their terms, and shall be recommissioned as notaries public in and for the county of Riverside until the expiration of their terms. And the governor shall, from time to time, appoint such additional notaries public for the county of Riverside as he may deem requisite.

§ 14. The superintendents of public schools of the counties of San Bernardino and San Diego shall furnish the superintendent of public schools of the county of Riverside with a certified copy of the last school census of the different school districts in the territory set apart to form the county of Riverside, and respectively draw their warrants on the treasurers of San Bernardino and San Diego counties in favor of the superintendent of schools in the county of Riverside for all money that is or may be due, by apportionment or otherwise, to the different districts embraced in the county of Riverside; and the auditors of San Bernardino and San Diego shall, in like manner, respectively draw their warrants on the respective treasurers of the counties of San Bernardino and San Diego, in favor of the auditor of the county of Riverside for all money that is or may be due, by apportionment or otherwise, to the different road and supervisorial district funds in the territory set apart to form the county of Riverside, which said amounts shall be properly credited to the respective districts in said counties.

§ 15. The said county of Riverside shall form and constitute the seventy-seventh assembly district, and a part of senatorial district number thirty-nine; and that part of the seventy-seventh assembly district remaining in San Bernardino County shall be attached to and constitute a part of the seventy-eighth assembly district, until otherwise provided by law.

§ 16. Nothing contained in this act shall be held or construed as determining that said county of Riverside shall have been formed or created at any time other than at and upon the date of the passage and approval of this act.

§ 17. This act shall take effect and be in force from and after its passage and approval.

People vs. Wallace, 101 Cal. 281, 283, 35 Pac. Rep. 862; People ex rel. Hargrave vs. Markham, 104 Cal. 232, 236, 37 Pac. Rep. 918; Security L. & T. Co. vs. Kauffman, 108

Cal. 214, 222, 41 Pac. Rep. 467; San Diego vs. Riverside, 125 Cal. 495, 497, 58 Pac. Rep. 81; Riverside County vs. San Bernardino County, 134 Cal. 517-519, 66 Pac. Rep. 788.

ROADS AND HIGHWAYS—BOULEVARD DISTRICTS.

To provide for the formation of boulevard districts and the construction, maintenance, and use of boulevards and defining the term boulevard.

(Stats. 1905, 754, ch. DLXVI.)

§ 1. Any portion of a county not contained in a boulevard district may be formed into a boulevard district under the provisions of this act, and when so formed shall be known and designated by the name and style of ——— boulevard district (using the name of the district), of ——— county (using the name of the county in which said district is located), and shall have the rights herein enumerated and such as may hereafter be conferred by law.

§ 2. A petition for the formation of such boulevard district (naming it) may be presented to the board of supervisors of the county wherein the district

is proposed to be formed, which said petition shall be signed by not less than twenty-five freeholders, resident within the proposed district, and shall contain—

(1) The boundaries of the proposed district.

(2) The number of acres contained therein and the approximate value thereof and of the improvements thereon.

(3) A particular description of the boulevard which it is desired to lay out, open, and construct.

(4) A request that an election be called within said district for the purpose of determining the question of the formation of said boulevard district and the building of the boulevard described in said petition. Such petition must also be accompanied by a map showing the location of said boulevard, and of said district with relation to the territory immediately contiguous thereto; also with a cross-section and profile of said proposed boulevard, together with specifications for the construction thereof, which said map shall be approved as to location of the boulevard and said cross-section, profile and specifications, as to manner of construction, by the county surveyor of the county in which said proposed district is located. There shall also be filed with said board of supervisors, at the time said petition is presented, a bond in the sum of not more than three hundred dollars, with two sufficient sureties, to be approved by said board, who shall each qualify in double the amount of the penal sum thereof, conditioned that they will pay the expense and cost of said election in an amount not exceeding the amount mentioned in said bond, as the penal sum thereof, in case such election shall fail to carry.

§ 3. Such petition must be presented at a regular meeting of said board of supervisors and they shall thereupon fix a time for hearing said petition, not less than twenty-one nor more than thirty days after the date of presentation thereof, and shall publish a notice of the fact that such petition has been filed (referring to the same on file with the clerk of the board of supervisors for further particulars) and giving the date and hour at which said petition will be heard, which said notice shall be published at least once a week for two consecutive weeks in some newspaper published and circulated in said proposed district; provided, that, if no newspaper be so published in said district, then said notice shall be so published in some newspaper published and circulated in the county in which said proposed district is located.

§ 4. Upon the day named for the hearing of said petition, the board of supervisors shall hear the same and may adjourn such hearing from time to time, not more than two weeks in all. On the final hearing, they shall make such changes in the proposed boundaries as they may find to be proper, and shall define and establish such boundaries. Any change made by the board of supervisors shall not include any territory outside of the boundaries described in the petition until the board has given at least two weeks' notice of its intention to include such territory in said district, said notice to be given and published as herein provided for the notice of the hearing of said petition.

§ 5. The boundaries established by the board of supervisors shall be the boundaries of such boulevard district until the same shall be changed in the manner provided by law. But if it shall appear to the board that the boundaries of any such division have been incorrectly described, it shall direct the

county surveyor to ascertain and report the correct description of the boundaries, in conformity with the orders of said board of supervisors, which said report must be filed within thirty days from the day of the making of such order. At the first regular meeting after the filing of said report, the board of supervisors shall ratify the same, with such modifications as they deem necessary, and the boundaries so established shall be the legal boundaries of such boulevard district.

§ 6. The board of supervisors thereupon, and not later than the first regular meeting after the establishment of said boundaries as hereinbefore provided, shall give notice of an election to be held in such proposed boulevard district for the purpose of determining whether such district shall be formed and said boulevard built as in said petition, maps, cross-sections, profiles and specifications described.

§ 7. Such notice must specify the time and place or places of holding the election, the amount of money proposed to be raised, and the purposes for which it is to be used, including a brief description of the proposed work and materials to be used, and referring to the map, profiles, cross-sections and specifications on file with the clerk of the board of supervisors.

§ 8. For the purposes of this election the board of supervisors shall establish, by order, one or more precincts within the boundaries of said district, and appoint one inspector, one judge and one clerk for each, to conduct the same, and said election must be held in all respects as near as practicable in conformity with the general election laws of the state. At such election the ballots shall contain the words "For the formation of said district and the construction of said boulevard—Yes, No," together with a square at the right of the word "Yes" and at the right of the word "No" in which the voter may stamp his ballot to indicate his choice. But no particular form of ballot other than above set forth need be used; nor shall any informality in conducting said election invalidate the same if the election shall have been otherwise fairly conducted.

§ 9. The officers of the election must certify the result of the election to the board of supervisors, giving the whole number of votes cast, the number for and the number against the formation of said boulevard district and the building of said boulevard, and if the majority of the votes cast are in favor of same, the board of supervisors must enter an order to that effect upon its minutes, declaring said district formed and that said boulevard shall be built, and the amount to be raised by taxation on the taxable property within said district, which said amount shall be in the aggregate not exceeding seventy-five per centum of the estimated cost of acquiring the right of way therefor and constructing said boulevard, as found in the estimates to be furnished by the county surveyor of said county; the balance, twenty-five per centum, to be paid out of the general road fund of the county; and the board of supervisors shall, at the time of fixing the amount of the county tax levy, levy a tax upon the taxable property in said district sufficient to pay said amount.

§ 10. The work provided for in this act to be done shall be by law contracted to the lowest responsible bidder in accord with the provisions of section two thousand six hundred and forty-three of the Political Code of California. The successful bidder shall give a bond in such sum as the board of supervisors

shall provide, conditioned for the faithful performance of the contract, together with any and all bonds required by law for public work. The work done under said contract to be performed under the direction and to the satisfaction of the surveyor of the county in which said boulevard district is located.

§ 11. Any money remaining to the credit of the boulevard district on the completion of the work contracted for, with any and all gifts and donations thereto, shall remain in the fund of the district and be expended in the betterment of said boulevard. The maintenance of the same, after the completion thereof, to be paid out of the general road fund of the county; provided, that the board of supervisors of the county in which said boulevard district is located may, as now or hereafter provided by law, arrange with the department of highways or other lawful authority to turn said boulevard over to the state of California, and it shall thereafter be kept and maintained as a state boulevard out of the funds provided by law for state highway purposes, but subject at all times nevertheless to the limitations as to the use thereof hereinafter provided.

§ 12. By the term "boulevard" as used herein is meant a highway of limited dedication and use, not less than one hundred feet in width and upon which no wagon for heavy teaming, having a tire of less than four inches, shall be permitted, and upon, along and over which no franchise for telephone, telegraph or electric wires or poles or for the operation or running of cars or vehicles upon fixed tracks or rails thereon shall ever be granted; and any easement granted or condemned for the building of said boulevard shall be so granted or condemned; provided, that nothing herein shall be deemed to apply to or preventing the granting of such franchise or limiting the use of wagons across said boulevard, on, over and along intersecting streets and highways.

§ 13. All provisions of the law of the state of California relating to streets and highways, including the right of eminent domain, save only section two of an act of the legislature of the state of California entitled "An act to repeal chapter two of title six, part three, of an act of the legislature of the state of California, entitled 'An act to establish a Political Code,' approved March twelve, eighteen hundred and seventy-two, and each and every section of said chapter two. And to enact a new chapter two of title six of part three of said code, and substitute the same in place of said repealed chapter two in said code, relating to roads and highways," approved February twenty-eight, eighteen hundred and eighty-three, and also an act of the legislature of the state of California entitled "An act for the establishment of a uniform system of road government and administration in the counties of the state of California," approved April one, eighteen hundred and ninety-seven, not in conflict herewith are hereby made applicable to the opening, laying out, and maintaining of boulevards constructed hereunder and the acquiring of rights of way therefor.

§ 14. The board of supervisors of the county in which said boulevard district is located shall have sole control of the management and affairs of said boulevard district.

ROADS AND HIGHWAYS—DEPARTMENT.

To create a department of highways for the state of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year.

(Stats 1897, 443, ch. CCLXXII.)

§ 1. A department of and for the state of California, to be known as the department of highways, is hereby created, to consist of three chief executive officers, who shall be known as highway commissioners. Said department, its officers and employees, shall have and exercise the powers and duties hereinafter specified, and such as are or may be otherwise provided by law.

§ 2. Immediately upon the taking effect of this act, the governor, by and with the consent and advice of the senate, shall appoint three persons as highway commissioners. The persons so appointed shall be selected with particular reference to their qualifications for, and practical knowledge of, highway location, construction, and maintenance. The highway commissioners shall devote their entire time to the service of the state, and shall not actively engage in any other pursuit while serving as highway commissioners. The commissioners shall personally perform all the engineering work of the department; provided, that the department may be allowed assistance on the engineering work thereof on receiving the unanimous approval of the state board of examiners.

§ 3. Each of the highway commissioners shall hold office for the term of two years from and after the date of his qualification, as hereinafter provided for. At the expiration of said last-named term two of said three offices shall thereupon cease and determine, and the powers and duties herein specified shall devolve upon one highway commissioner. At least thirty days prior to the expiration of the terms of the highway commissioners provided for above in this section the governor, by and with the advice and consent of the senate, unless it be otherwise provided by law, shall appoint, for a term of four years, and every four years thereafter, one civil engineer as highway commissioner, who shall have the qualifications specified in section two of this act, and upon him shall devolve all of the duties and powers which shall be conferred upon the commissioners first appointed under the provisions of this act, and who shall receive like compensation. Whenever a vacancy occurs in the office of highway commissioner, it shall be the duty of the governor to fill such vacancy for the unexpired term, which appointment shall be confirmed by the senate at its next session.

§ 4. Within twenty days after receiving notice of appointment, the person or persons so appointed shall file a bond in the sum of ten thousand dollars (\$10,000), with at least two sufficient sureties thereon, for the faithful performance of his duties, which bond must be approved by the governor, and filed with the secretary of state, and qualify by taking the oath of office as prescribed for state officers.

§ 5. The three chief executive officers hereinbefore provided for shall

immediately, upon qualifying, organize by electing one of their number as president and shall adopt a seal for the authentication of its acts, records, and proceedings.

§ 6. The department of highways shall have power to appoint a secretary and a stenographer, who shall hold office at the pleasure of the department. Such employees shall not be eligible for such appointment unless they possess special qualifications for, and are competent to perform the duties devolving on them; and they shall devote their entire time to the service of the department.

§ 7. The office of the department of highways shall be in the state capitol building; and the secretary of state shall assign to the department, for its use, such rooms as may be necessary for its accommodation. All of the regular meetings of the department shall be held at such office. The department may, however, hold such special meetings at such places as the duties of the department, or the best interests of the state, may require.

§ 8. The department of highways shall take possession, in the name of the state, as rapidly as the funds provided therefor will permit, of all roads which have been or may be declared state highways.

§ 9. The department of highways shall have charge of all expenditures made by the state for highway purposes, except as otherwise provided by law; and all moneys appropriated for such purpose shall be made payable upon proper order of said department. All claims and accounts which may be incurred by the department of highways shall, however, before payment, be audited by the board of examiners.

§ 10. The department of highways shall make examination into existing highway conditions in the state of California, and shall, furthermore, make such investigations within the state, as will put at the service of the state the most approved methods of highway improvement. It shall supply, on request without charge, any information relative to highways required by any county or district official having care of and authority over highways within this state. It shall collect and collate data relating to the geological formation of the state in so far as it relates to material suitable for highway construction, and make analyses and tests of such material as it may deem suitable for highway uses, with the view of determining the value of the same for such purposes. All data so collected, together with such other matters of value or interest to the people of the state, shall be published in bulletins, or upon maps or diagrams, or in other proper form, or in the biennial report of the department, as it in its discretion shall determine. The department shall prepare and adopt styles and forms of books for use by officials, in which to keep account of the expenditure of highway money and all other records or proceedings relating to highways. It shall prepare such forms as may be necessary for use in connection with opening, abandoning, altering, locating, constructing, maintaining, obtaining title to, or otherwise relating to proposed state highways; and such books and forms, when so adopted, shall be the standard for use in the state. Copies of them shall be forwarded to the various officials who are charged with keeping or using the same, and such officials shall immediately prepare books and forms after the style shown by such standard, and shall thereafter use them exclusively

for the purposes for which they are intended. It shall be the duty of the department to adopt such general forms for the surveying of state highways, mapping, and keeping of the notes thereof, and the permanent marking of the same on the ground, as it shall deem necessary and shall issue instructions defining such general forms and markings to the person having charge of the making of such surveys; and it shall thereafter be the duty of such persons to follow the methods prescribed in such instructions. The department of highways, in performance of its duties, shall have the power to call upon any state, county or district official to furnish it with any information contained in his office which relates to or is in any way necessary to the proper performance of the work of said department; and it is hereby made the duty of such officials to furnish such information without cost. The attorney-general of the state shall be the legal adviser of the department of highways, and said department of highways shall call upon the attorney-general of the state for all such legal advice and services as the discharge of its duties may require.

§ 11. The department shall prepare biennial reports, which shall be submitted to the governor at least thirty days before each session of the legislature. Said report shall embrace the work and investigations of the department for the previous two years, together with such recommendations for changes in the law which it may deem advisable, and which the proper and economical maintenance of the highways may demand.

§ 12. It shall be the duty of the state controller, upon the demand of the department of highways, to transfer to it, for its use, all of the property, books, reports, and papers of every description which shall be transferred to him under the provisions of an act entitled "An act to create a bureau of highways, and prescribe its duties and powers, and make an appropriation for its expenses," approved March twenty-seventh, eighteen hundred and ninety-five.

§ 13. It shall be the duty of the state printer to print such reports, bulletins, or other matter, and furnish any necessary illustrations or diagrams therefor as the department of highways may deem necessary; all of which shall first be subject to the approval of the state board of examiners.

§ 14. The department of highways shall have the power and authority to employ, when in its judgment it is deemed necessary, such assistance of a special character as may be necessary and proper, for the discharge of its duties. The department shall also have the power to purchase such supplies, fixtures, and conveniences, as may be necessary in the performance of its work. The commissioners of the department of highways, or any employee thereof, shall be allowed their necessary traveling expenses while engaged in the discharge of their duties within the state. All of the expenses mentioned in this section, except as otherwise herein provided, shall be paid from the appropriation for the contingent expenses of the department of highways. The employment and compensation of assistants under the provisions of this section must receive the approval of the state board of examiners. The expense incurred in locating and definitely surveying state highways in a county shall be paid from the funds apportioned thereto for state highway purposes.

§ 15. The commissioners of highways shall each receive the sum of three thousand dollars (\$3,000) per annum; the secretary the sum of fifteen hundred

dollars (\$1,500) per annum; and the stenographer the sum of twelve hundred dollars (\$1,200) per annum. Such salaries shall be paid at the same time and in the same manner as are the salaries of other state officers.

§ 16. For the purposes of carrying out the provisions of this act, the sum of three thousand dollars (\$3,000) is hereby appropriated out of any money in the state treasury not otherwise appropriated, to pay the salaries of the officers and employees and the other expenses of said department for the remainder of the forty-eighth fiscal year.

§ 17. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 18. This act shall take effect and be in force from and after its passage.

ROADS AND HIGHWAYS—PUBLIC LANDS.

Granting to roads and highways a right of way over the public lands of this state.

(Stats. 1865-6, 855, ch. DCXXX.)

§ 1. Whenever any corporation, company, or individual shall, in accordance with the general laws of this state lay out and construct any road or highway over any unoccupied public lands of this state, or over any lands that the state by donation of Congress or otherwise may hereafter acquire, such corporation, company or individual, and their respective assigns, are hereby granted the right of way for such roads or highways over such public lands. This act shall apply to roads heretofore as well as hereafter laid out and constructed.

ROADS AND HIGHWAYS—STATE.

To provide for the care, management, and protection of state highways.

(Stats. 1903, 400, ch. CCLXXVI.)

§ 1. If any state highway duly declared, laid out, or erected is encroached upon by fences, buildings, or otherwise, the highway commissioner of California may require the removal of the encroachment. Notice must be given to the occupant or owner of the land or person causing or owning said encroachment, or must be left at his place of residence, if such be known to the commissioner, or in case of a non-resident, then left with his agent if known, otherwise it must be posted on the encroachment. Said notice must specify the breadth of the state highway, the place and extent of the encroachment, and require him to remove the same within five days.

§ 2. If the encroachment is not removed, or commenced to be removed and diligently prosecuted prior to the expiration of the five days from the service or the posting of the notice, the one who caused, owns, or controls the encroachment forfeits ten dollars for each day the same continue unremoved. If the encroachment is such as to effectually obstruct and prevent the use of the road for vehicles, the state highway commissioner must forthwith remove the same.

§ 3. If the encroachment is denied, and the owner, occupant, or person controlling the matter or thing charged as being an encroachment refuses to remove or permit the removal thereof, the state highway commissioner must commence

in the proper court an action to abate the same as a nuisance. If he recovers judgment, he may, in addition to having the same abated, recover ten dollars for every day such nuisance remained after such notice, and also his costs in his said action.

§ 4. If the encroachment is not denied, but is not removed for five days after the notice given as hereinbefore provided, the state highway commissioner may remove the same at the expense of the owner, occupant, or person controlling the same, and recover his costs and expenses, and also ten dollars for each day the same remains after said five days' notice, in an action for that purpose.

§ 5. Whoever obstructs or injures any state highway, or diverts any water-course thereon, or drains water from his land on any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in section five hundred and eighty-eight of the Penal Code. Any person, persons, or corporations, who shall, by storing or distributing water for any purpose, permit the water to overflow, or saturate by seepage, any state highway, to the injury thereof, shall, upon notification of the state highway commissioner, discontinue and repair the damage occasioned by such overflow or seepage; and should such repair not forthwith be made by such person, persons, or corporations, said state highway commissioner shall make such repairs and if necessary divert the flow or seepage, and recover the expense thereof from such person, persons, or corporation, in an action by law. All persons excavating irrigation, mining, or draining ditches across the state highways shall be required to bridge such ditches under the direction of the commissioner, at such crossings, and upon neglect to do so, the state highway commissioner shall construct the same and recover the cost of constructing said bridge or bridges of such person by action, as provided in this section; and whoever wilfully injures any bridge on a state highway is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the state in a civil action; provided, further, that every person who knowingly allows the carcass of any dead animal (which animal belongs to him at the time of its death) to be put or remain within one hundred feet of any state highway, and every person who puts the carcass of any dead animal within one hundred feet of any state highway, or who shall deposit on any state highway any refuse, or waste tin, sheet iron, broken glass, or other refuse matter, is guilty of a misdemeanor.

§ 6. Whoever removes or injures any mile-stone, mile-board, or guide-post, or any inscription thereon, erected on any state highway, is liable to a penalty of ten dollars for every such offense, and punishable as provided in section five hundred and ninety of the Penal Code.

§ 7. Any person may notify the occupant or owner of any land from which a tree or other obstruction has fallen upon any state highway to remove such tree or obstruction forthwith. If it is not so removed, the owner or the occupant is liable to a penalty of one dollar for every day thereafter until it is removed, and the cost of removal at the suit of the commissioner.

§ 8. Whoever cuts down a tree so that it falls into any state highway must forthwith remove the same, and is liable to a penalty of ten dollars for every day the same remains in such highway.

§ 9. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental trees on any state highway, unless the same is deemed an obstruction by the state highway commissioner, and removed under his direction, forfeits one hundred dollars for each such tree.

§ 10. All penalties or forfeitures and other recoveries given in this act and not otherwise provided for, must be recovered by the state highway commissioner by suit in the name of the state, and paid into the state treasury, and thereafter be used for the purpose of costs or expenses in future proceedings under this act or for state road purposes.

§ 11. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed.

§ 12. This act shall take effect and be in force from and after its passage.

ROADS AND HIGHWAYS—LAKE TAHOE.

To provide for the construction of permanent bridge work on the Lake Tahoe wagon road, a state highway, and making an appropriation therefor.

(Stats. 1905, 796, ch. DXCVI.)

§ 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of six thousand (\$6,000) dollars for the purpose of constructing permanent bridge work on the Lake Tahoe wagon road, a state highway. Said sum of six thousand dollars shall become available July first, nineteen hundred and five.

§ 2. The work provided for in section one of this act is placed under the control of the Lake Tahoe wagon road commissioner, provided, however, that the plans and specifications for said bridge work shall be made by the department of highways of California, and that all work in connection with said plans and specifications shall be inspected by the state highway commissioner. Before any payments are made for work done hereunder it shall be the duty of the state highway commissioner to certify to and approve the same.

§ 3. The state controller is hereby instructed and directed to draw his warrants, in payment for said work, at such time and in such amounts as the Lake Tahoe wagon road commissioner may present claims for. Said warrants shall be drawn in favor of the said commissioner, and the said treasurer is hereby directed and instructed to pay said warrants, and the Lake Tahoe wagon road commissioner shall disburse the same.

ROADS AND HIGHWAYS—MODOC COUNTY.

To aid the county of Modoc in the construction of permanent work on the county road between Alturas and Cedarville, and making an appropriation therefor.

(Stats. 1905, 790, ch. DLXXXIX.)

§ 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of seven thousand dollars (\$7,000), for aid to the county of Modoc in the construction of permanent work on the county road between Alturas and Cedarville. Of the money herein appropriated thirty-

five hundred dollars (\$3,500) shall become available immediately and the remaining sum of thirty-five hundred dollars shall become available January first, nineteen hundred and six.

§ 2. The road work above mentioned is placed under the management and control of the department of highways, and it shall be the duty of said department to do the work upon the best and most economical plan consistent with the best interests of Modoc County and the state.

§ 3. The state controller is hereby instructed and directed to draw his warrants, in payment for said work, at such time and in such amounts as the department of highways may present claims for. Said warrants shall be drawn in favor of the highway commissioner and the said treasurer is hereby directed and instructed to pay said warrants, and the highway commissioner shall disburse the same.

ROADS AND HIGHWAYS—MONO LAKE.

To provide for the construction of a free wagon road from the Mono Lake basin to connect with a road called "Tioga Road," at or near the "Tioga Mine," and making an appropriation therefor.

(Stats. 1899, 26, ch. XXVI.)

§ 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty-five thousand dollars (\$25,000), for the purpose of locating and constructing a free wagon road from the Mono Lake basin to and connecting with a wagon road called the "Tioga Road," and near the "Tioga Mine."

§ 2. The road above mentioned is hereby declared to be a state highway, and is placed under the control of the department of highways, and said department shall have the same powers over, and duties to perform in connection with, said highway as it has in regard to other public highways.

§ 3. It shall be the duty of the department of highways to locate and construct said highway upon the best grades and alignments which the topography of the county [country] traversed will permit, and in consonance with the best interests of the state, and it shall furthermore be the duty of said department to begin such work of location and construction as soon as the money appropriated herein is available therefor, and to prosecute the same with diligence.

§ 4. The money appropriated under the provisions of this act shall be paid by the state treasurer upon warrants issued by the controller out of the general fund of the fifty-first and fifty-second fiscal years.

§ 5. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 6. This act shall take effect and be in force from and after its passage.

See next following statute.

ROADS AND HIGHWAYS—MONO LAKE.

To provide for the construction of the unfinished part of the free wagon road from Mono Lake basin to connect with a road called the "Tioga Road," at or near the "Tioga Mine," and making an appropriation therefor.

(Stats. 1903, 523, ch. CCCLXXVIII.)

§ 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of twenty-five thousand dollars (\$25,000), for the purpose of constructing the unfinished part of the free wagon road from Mono Lake basin to and connecting with a wagon road called "Tioga Road" at or near the "Tioga Mine."

§ 2. It shall be the duty of the department of highways to begin such work of construction as soon as the money appropriated is available therefor.

§ 3. The money appropriated under the provisions of this act shall be paid by the state treasurer upon the warrant drawn by the controller in favor of the state highway commissioner.

§ 4. This act shall take effect and be in force from and after January first, nineteen hundred and four.

ROADS AND HIGHWAYS—MONO LAKE.

To declare a part of the Sonora and Mono wagon road, commencing east of Sonora, at a point known as Long Barn, in Tuolumne County, and running thence across the summit of the Sierra Nevada Mountains to Bridgeport, in Mono County, a state highway.

(Stats. 1901, 272, ch. CXI.)

§ 1. That portion of the Sonora and Mono wagon road, commencing east of Sonora, and at a point commonly known as Long Barn, in Tuolumne County, and running thence across the summit of the Sierra Nevada Mountains to Bridgeport, in Mono County, in this state, is hereby declared a state highway.

§ 2. This act shall take effect immediately.

ROADS AND HIGHWAYS—PROTECTION OF.

To provide for the protection and preservation of highways from damages by storm waters and floods, and to authorize the expenditure of public moneys for the purposes thereof.

(Stats. 1897, 404, ch. CCLVIII.)

§ 1. Whenever it appears to the board of supervisors that any public road, in any road district of the county, is in danger of being damaged by storm waters, or floods, or whenever any public highway has already been damaged by storm waters, or floods, it is hereby made the duty of the board of supervisors to adopt such measures as may be necessary to prevent such damage, or to repair the same; and the board of supervisors is hereby authorized to construct flumes, ditches, or canals, for the purpose of carrying off such storm waters, or floods, to a place of safety, and may condemn the right of way for such flumes, ditches, or canals for such purpose; provided, however, that no more than the sum of one thousand dollars shall be used for such purpose in any one road district of the county in any one year.

§ 2. All moneys used for the purposes of this act may be taken from the general road fund of the county.

§ 3. This act shall take effect and be in force from and after its passage.

ROADS AND HIGHWAYS—SACRAMENTO TO FOLSOM.

To provide for the construction of a state highway or wagon road from Sacramento city to Folsom, in Sacramento County, and appropriating crushed rock and granite or stone blocks for drains and culverts for same.

(Stats. 1897, 239, ch. CLXXVI.)

§ 1. A public highway or wagon road shall be built from a point on the eastern limits of the city of Sacramento, to Folsom, in Sacramento County, as near as practicable along the route of the present most direct line of county roads between those two points; provided, that before any work is done, or money expended on account of the construction thereof, the necessary legal right of way or title to the lands upon which such road is to be built shall first have been conveyed to the state of California.

§ 2. Such road shall be built under the direction of three commissioners who shall be known as the Folsom highway commissioners, and who shall be appointed by the governor, and who shall be residents of Sacramento County, who shall hold office from the date of their appointment until the first day of January, eighteen hundred and ninety-nine, and who shall serve without compensation.

§ 3. The highway or wagon road herein provided for shall be macadamized, be built according to the most approved methods of modern highway construction, to be built along the most direct route available, and upon the easiest grades, with proper drains, culverts, and bridges, and shall be of such width, not to exceed twenty feet, as such commissioners shall deem expedient and within the means at their command.

§ 4. Immediately after the approval of this act the governor shall appoint the three Folsom highway commissioners herein provided for, and such commissioners shall proceed immediately to the survey and location of the road herein provided to be built, and to an estimate of its cost, and shall cause all work done upon said highway to be done either by contract or day's labor or both as they should deem best.

§ 5. The road herein provided for shall be built, so far as practicable, from broken or crushed stone or rock from the rock-crusher at the Folsom State Prison, and the state prison directors are hereby directed and authorized to supply such crushed or broken rock, together with the necessary granite or stone blocks for drains, culverts, or bridges, free of cost or charge, other than transportation to the Folsom highway commissioners for the construction of such highway.

§ 6. The Folsom highway commissioners shall keep strict and accurate accounts of every item of expense paid, incurred, or contracted, on account of the construction of the road herein provided to be built, including the value of materials, work, or labor contributed or bestowed free of charge, and report to the legislature of California, at its thirty-third session, the exact cost of the road and separately the cost of its grading, rolling, the value of the rock and top dressing used, the cost of spreading the same, and the cost or re-rolling, and of each stage of its construction. This road shall be completed before such thirty-third session of the legislature, and the same shall be exhibited to the

members of such legislature as a sample of modern and improved highway construction, and together with the detailed report of the commissioners, serve as a model and guide to the legislature, in the consideration of necessary highway legislation.

§ 7. This act shall take effect immediately.

Devine vs. Board Supervrs., 121 Cal. 671, 54 Pac. Rep. 262.

ROADS—STATE, SONORA AND MONO.

To appropriate the sum of twenty thousand dollars for the purpose of erecting and constructing bridges, culverts, and grading upon the Sonora and Mono road, a state highway.

(Stats. 1905, 146, ch. CL.)

§ 1. The sum of twenty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, which moneys shall be used and expended in the erection and construction of bridges, culverts, and grading upon the Sonora and Mono road, now a state highway; said moneys shall be expended under the supervision of the department of highways, and the accounts of all moneys expended by virtue of the provisions of this act shall be audited and allowed by the state board of examiners, and when so audited the state controller is hereby directed to draw his warrant on the state treasury therefor, and the state treasurer is hereby directed to pay the same.

§ 2. Five thousand dollars of the moneys appropriated shall be available on and after the passage of this act, and the remaining fifteen thousand dollars of the moneys hereby appropriated shall be available from and after July first, nineteen hundred and five.

§ 3. This act shall take effect and be in force from and after its passage.

ROADS AND HIGHWAYS—TRINITY.

To provide for locating and surveying a proposed highway from a point on the Trinity River, in Trinity County, near the town of North Fork, thence westerly down said river about forty miles to connect with an existing road in Humboldt County, and making an appropriation therefor.

(Stats. 1903, 515, ch. CCCLXVI.)

§ 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of eighteen hundred dollars (\$1,800.00), for the purpose of locating and surveying a proposed highway from a point on the Trinity River, in Trinity County, near the town of North Fork, thence westerly down said river about forty miles to connect with an existing road in Humboldt County.

§ 2. The survey above mentioned is hereby placed under the management and control of the department of highways, of the state of California, and said department shall assume the entire management and control of said survey for said proposed highway. It shall furthermore be the duty of said department to locate and survey said proposed highway upon the best grades and alignments which the topography of the country traversed will permit, and in consonance with

the best interests of the state, and the work of locating and surveying shall be prosecuted as rapidly as possible.

§ 3. The money appropriated under the provisions of this act is hereby made available on and after January first nineteen hundred and four. The state controller is hereby instructed and directed to draw his warrants at such time and in such amounts as the department of highways may present claims for. Said warrants shall be drawn in favor of the highway commissioner, and the state treasurer is hereby directed and instructed to pay said warrants, and the said highway commissioner shall distribute the same.

§ 4. All acts or parts of acts in conflict with this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage.

ROADS AND HIGHWAYS—YOSEMITE.

Appropriating money for the purchase of certain roads within the limits of the Yosemite grant.

(Stats. 1889, 142, ch. CXXXIV.)

§ 1. The sum of fourteen thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purchase of the following roads within the limits of the Yosemite grant, to be expended as follows: The sum of six thousand dollars shall be paid to the Big Oak Flat and Yosemite Turnpike Road Company for their road, running from Gentry station to the floor of the valley, a distance of six miles, and known as the "Big Oak Flat Road;" and the sum of eight thousand dollars shall be paid to the Yosemite Stage and Turnpike Company for their road, running from the line of the grant to the floor of the valley, by Inspiration and Artists' Points, a distance of eight miles, and known as the "Yosemite and Wawona Road."

§ 2. The controller of state is hereby authorized and directed to draw his warrant in favor of the Big Oak Flat and Yosemite Road Company for the sum of six thousand dollars, and in favor of the Yosemite Stage and Turnpike Company for the sum of eight thousand dollars, for the purchase of the roads specified and provided for in section one of this act, and the state treasurer is hereby directed to pay the same.

§ 3. This act shall take effect and be in force from and after its passage.

ROADS AND HIGHWAYS.

See tits. **County Government; Franchises; Municipal Corporations; Parks; Sherman Island.**

Special acts relating to roads in Humboldt County repealed by Stats. 1873-4, 359.

Acts referring to roads in particular counties are omitted for the reason that

§ 2618 of the Political Code determines what are highways, and the subject of management, etc., of highways is provided for in the same code.

ROCK CRUSHING.

See tit. **State Prisons.**

RODEOS.

Although the laws on this subject are continued in force by § 19 of the Political Code and § 23 of the Penal Code, it is believed to be sufficient here to refer to the statutes

and their amendments, as follows: Stats. 1852, 102; 1855, 163; 1858, 70; 1858, 155; 1861, 180; 1865-6, 673; 1873-4, 793.

See tits. *Animals*; *Judges of the Plains*.

ROUGH AND READY—TOWN.

See tits. *Etna*; *Municipal Corporations*.

SACRAMENTO CITY.

Granting certain swamp and overflowed lands to the city of Sacramento.

(Stats. 1857, 155, ch. CXXXII.)

§ 1. The title of the state of California in and to all the lands described in section second of this act, is hereby given, granted and relinquished to the city of Sacramento.

§ 2. The lands granted by this act are described as follows, to wit: Beginning at a point in the city of Sacramento, on the east side of Third Street, twenty-five feet north from I Street, and running thence in an easterly direction six hundred and forty feet, in a direct line to a point seventy feet west from Fifth Street and eighty-five feet north from I Street. Thence in a northerly direction, parallel with Fifth Street, thirty feet. Thence in a westerly direction, one hundred and twenty feet, in a direct line to a point on the south line of an alley which is one hundred and sixty feet north from I Street. Thence in a northeasterly direction, four hundred and fifty feet, in a direct line to a point on the east line of Fifth Street, one hundred feet north from H Street. Thence in an easterly direction, and parallel with H Street, eighty feet. Thence at right angles, and in a northerly direction, and parallel with Fifth Street, one hundred and forty-five feet. Thence in a northwesterly direction, two hundred and thirty-five feet, in a direct line to a point on the west line of Fifth Street, fifteen feet north from G Street. Thence in a westerly direction, and parallel with G Street, eighty feet. Thence in a northerly direction, and parallel with Fifth Street, thirty feet. Thence in a westerly direction, and parallel with G Street, two hundred and forty feet, to the east line of Fourth Street. Thence westerly two hundred and seventy feet, in a direct line to a point on the south line of G Street, one hundred and sixty feet west from Fourth Street. Thence in a westerly direction and along the south line of G Street, three hundred and twenty feet. Thence in a southeast direction, five hundred feet, in a direct line to a point on the north line of H Street, one hundred feet west from Fourth Street. Thence southerly, and parallel with Fourth Street, two hundred and forty feet. Thence in a southwesterly direction, two hundred and forty feet, to the east line of Third Street at a point fifty feet north from the place of beginning. Thence south along the east line of Third Street, to the place of beginning.

§ 3. It shall be the duty of the mayor and common council of the city of Sacramento to cause the land granted by this act to be surveyed by the city surveyor of said city, and divided into lots of convenient size, fronting upon Third, Fourth and Fifth streets, and G and H streets, which streets shall be extended through said property in accordance with the general plan of the

streets in said city, and within six months after the passage of this act they shall cause all of said lots to be sold at public auction, in separate parcels, to the highest bidder, after having first advertised the time, place, and terms of said sale, at least twenty days in some daily newspaper published in said city of Sacramento; and the proceeds of the sale of said lots shall be exclusively devoted to constructing and grading Third, Fourth and Fifth streets, and G and H streets, within the boundaries mentioned in section two of this act, until said streets shall be finished in a good and substantial manner, and the residue of the proceeds of said sale of lots, if any, shall be paid into the school fund of said city of Sacramento, to be used for common school purposes.

SACRAMENTO COUNTY—RECORDS.

Authorizing the transcribing of certain records in the county of Sacramento.
(Stats. 1873-4, 475, ch. CCCXXIX.)

§ 1. The county recorder of the county of Sacramento is hereby authorized and required to transcribe into such books as are prescribed by law, and copy the following original books of record now existing in his office and in his custody, to wit: Book A of Deeds, Book B of Deeds, Book A of Powers of Attorney, Book A of Attachments, Index of Attachments, Index A of Notices of Lis Pendens, Book A of Judgments, and Book D of Mortgages.

§ 2. The transcript hereby authorized to be made shall contain in each book the whole of the corresponding records of said county appropriate to the said book, up to the date of the completion of the said transcript, and immediately upon said completion, it shall be the duty of the said recorder to inscribe in such book, at the end of the portion of the transcript therein made, his certificate, with his official seal affixed, to the effect that he has compared such copy with the original, and that the same is a complete and correct transcript therefrom, and of the whole of the original records of said county appropriate to the said book.

§ 3. Immediately upon the affixing of the certificate mentioned in the last section, the books in which the same shall be inscribed shall be and become the legal record books of the said county for the class of records which the same are respectively appropriated; and the said recorder shall thereafter employ and use the same as such legal books of record.

§ 4. The transcript herein authorized to be made, and every part and parcel thereof, shall be held to have the same validity, force and effect as the original records, and legally certified copies thereof and therefrom shall be received and read in evidence in all courts, in the same manner and with like effect as copies of the original records.

§ 5. The original books of record so transcribed, as herein authorized, shall be preserved in a secure place by the said recorder, and shall be open to inspection as other records; and nothing herein contained shall be so construed as to impair the force or validity of the same, or of any duly certified copy thereof.

§ 6. The board of supervisors of the county of Sacramento shall furnish all the necessary books and indices to the same, mentioned in or required under the provisions of section one of this act.

§ 7. The county recorder shall receive for his services under this act, including the certificate [as] to the correctness of the said transcript, the following, for his own use and benefit, compensation, to wit: For each folio written, fifteen cents; and for indexing each name, ten cents.

§ 8. All claims for services performed under and by virtue of this act shall be examined by the finance committee of the board of supervisors of Sacramento County, and shall be by said committee allowed at the rates specified in section seven of this act, and shall be payable out of and deducted from the fees of his office by the recorder, upon the certificate of said committee, for the amounts specified therein, and shall not be a charge against the county.

§ 9. This act shall take effect and be in force upon and after its passage.

SACRAMENTO COUNTY—EAST PARK.

See tit. Public Parks.

SACRAMENTO COUNTY.

See tit. Hunting on Private Property.

SACRAMENTO COUNTY—JUDGES.

To provide one additional judge of the superior court of the county of Sacramento.

(Stats. 1895, 48, ch. XLIV.)

§ 1. The number of judges of the superior court of the county of Sacramento is hereby increased from two to three.

§ 2. Within ten days after the passage of this act the governor shall appoint one additional judge of the superior court of the county of Sacramento, who shall hold office until the first Monday after the first day of January, anno Domini eighteen hundred and ninety-seven; and at the next general election, to be held in November, anno Domini eighteen hundred and ninety-six, one judge of said court, in addition to the present number provided by law for said county, shall be elected to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said one additional judge shall be the same in amount, and shall be paid at the same time and in the same manner, as that of the other judges of the superior court of said county now authorized by law.

§ 4. This act shall take effect immediately from and after its passage.

SAILORS AND SOLDIERS—BURIAL.

To provide for the burial of ex-Union soldiers, sailors, and marines in this state who may hereafter die without leaving sufficient means to defray funeral expenses.

(Stats. 1889, 198, ch. CLXI; amended 1901, 596, ch. CLXXXIX.)

§ 1. It shall be the duty of the board of supervisors of each county in this state to designate a proper person in the county, whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor or

marine who shall have served in the army or navy of the United States, who may hereafter die without having sufficient means to defray funeral expenses. Such burial shall not be made in any cemetery or burial ground, or any portion of such cemetery or burial ground, used exclusively for the burial of the pauper dead. The expenses of each burial shall not exceed the sum of fifty dollars (\$50). [Amendment, Stats. 1901, 596.]

§ 2. The expenses of such burial shall be paid by the county in which said soldier, sailor, or marine dies; but if such deceased person has a residence in any other county in this state than the one paying the expenses, the county of his residence shall refund the money advanced by the county where he died. Expenses of such burial shall be audited and paid as other accounts are audited and paid by the county; provided, that this act shall not apply to such soldiers, sailors, or marines who may hereafter die in the national or state soldiers' home in this state. [Amendment, Stats. 1901, 596.]

§ 3. It shall be the duty of the person appointed, as provided in section one of this act, before he assumes the charge and expenses of any such burial, to first satisfy himself, by a careful inquiry into and examination of all the circumstances in the case, that the family of such deceased soldier, sailor, or marine, if he had any at the time of his decease residing in such county, is unable for want of means to defray the expenses of such burial or funeral; and if he finds such inability to exist he shall cause such deceased soldier, sailor, or marine to be buried as provided in this act, and he shall immediately report his action to the clerk of the board of supervisors of the county, stating forthwith, all the facts, and that he found the family of such deceased person, if he had any, in indigent circumstances, and unable to pay the expenses of such funeral or burial, together with the name, rank, and command to which he belonged as such soldier, sailor, or marine, the date of his death, place where buried, and his occupation while living, and also an itemized statement of the expenses incurred by reason of such burial. [Amendment, Stats. 1901, 596.]

§ 4. It shall be the duty of the clerk of the board of supervisors, upon receiving the report and statement of expenses provided for in this act, to transcribe in a book kept for that purpose, all the facts contained in such report respecting such deceased soldier, sailor, or marine. It shall also be the duty of said clerk, upon the death and burial of any such soldier, sailor, or marine, to make application to the proper authorities under the government of the United States, for a suitable headstone, as provided by act of Congress, and to cause the same to be placed at the head of such soldier, sailor, or marine's grave, the expenses of which shall not exceed the sum of five (\$5.00) dollars for cartage and properly setting each stone. The expenses thus incurred shall be audited and paid as provided in section two of this act for burial expenses. [Amendment, Stats. 1901, 596.]

§ 5. The person appointed as provided in section one of this act shall not receive any compensation for any duties he may perform in compliance with this act. [Amendment, Stats. 1901, 596.]

This act shall take effect immediately.

The Amendatory Act of 1901, 596, which purports to amend the Act of 1889, 198, supersedes the former act in every section.

SAINT HELENA—TOWN.

See tit. **Municipal Corporations.**

SALARIES.

See tit. **Fees of Officers.**

SALINAS—CITY.

See tit. **Municipal Corporations.**

SALMON—SALMON FALLS.

See tit. **Fish and Game.**

SALOONS.

See tits. **Accounts; Children; Intoxicating Liquors; Sanitary Districts.**

SAN ANTONIO CREEK—ALAMEDA.

To authorize the construction of a swing or draw bridge across the San Antonio Creek, in the county of Alameda.

(Stats. 1869-70, 693, ch. CCCCLXVI.)

§ 1. The mayor of the city of Oakland is hereby authorized to nominate and appoint five persons as commissioners, three of whom shall be residents of the city of Oakland and two of them residents of the township of Alameda, who shall perform the duties hereinafter specified, serving without compensation.

§ 2. After the appointment of the said commissioners they shall organize by electing one of their number president and another one secretary and treasurer, and a regular record of their proceedings shall be kept, which shall be prima facie evidence in all courts. They shall proceed to procure plans and specifications for the erection and completion of a swing or draw bridge and roadway across the San Antonio Creek, commencing at the foot of Webster Street, city of Oakland, and connecting the Oakland side of the creek with such point on the south side of the same as they may select. The bridge and roadway shall have a width of not less than twenty nor more than thirty feet, and the bridge shall be so constructed that when it is swung it shall leave a clear space of not less than eighty feet for the passage of vessels and steamers. When said plans and specifications are obtained by said commissioners, they shall invite sealed proposals for the construction of said bridge and roadway, by advertisement in all the daily newspapers published in the city of Oakland and in one daily newspaper published in San Francisco, for a period of thirty days, designating in said notice when and where such proposals shall be presented, and when and where the same shall be opened. At the time and place aforesaid, as specified, said commissioners shall open said proposals, and unless they shall be of opinion that more favorable proposals can be obtained, shall award the same to the lowest responsible bidder. But in case they shall be of opinion that more favorable proposals can be obtained, then and in that case said commissioners shall again advertise as hereinbefore directed, and make their award as before directed, with the same discretion as before stated. Every person presenting

proposals shall execute a bond in the penalty of two thousand dollars, to the people of the state of California, conditioned that if the contract is awarded to him he will enter into and execute such contract and perform the work according to the specification.

§ 3. The contract for the construction of said bridge and roadway shall also provide for the construction of a roadway across the marsh upon the Encinal of San Antonio, to such point as said commissioners shall select upon the upland, so as to connect with the streets upon said Encinal, and for this purpose shall be authorized to lay out and open a roadway across and over said route, and enter upon and condemn private property under the provisions of the law applicable to railroads, and in the same manner as therein provided; and for these purposes, said commissioners shall be authorized to institute such suits and legal proceedings as they may deem necessary.

§ 4. The expense of the construction of said bridge and roadway shall not exceed, in the aggregate, the sum of forty-five thousand dollars, and shall be collected and paid by a special tax upon the property in the city of Oakland, and in the township of Alameda, in the following proportions, that is to say: One half of the cost of said bridge, but not to exceed twelve thousand five hundred dollars, shall be assessed upon the property in the city of Oakland; and one half the cost of said bridge and all the cost of said road, the whole not to exceed thirty-two thousand five hundred dollars, upon the property in the township of Alameda. So soon as the said commissioners shall have ascertained the total probable cost of such bridge and roadway, by having made a contract or contracts in proper form with responsible parties for the construction of the same, they shall add to such cost the incidental expenses of such proceedings, including cost of publication, of plans and specifications and other unavoidable expenses, all of which incidentals shall not exceed the sum of five hundred dollars; and said commissioners shall certify one half the aggregate cost of said bridge, not to exceed twelve thousand five hundred dollars, to the city council of the city of Oakland, who shall apportion the same upon the taxable property in said city by fixing the rate per centum, or in any other mode, in their discretion, and provide by ordinance for the collection of the same in the same manner as other city taxes are collected; such taxes shall be collected by the officer authorized to collect city taxes and shall be paid by him into the hands of the treasurer of said commissioners. The said commissioners shall in like manner certify the other half of such cost of said bridge and all the cost of constructing said road, not to exceed thirty-two thousand five hundred dollars, to the board of supervisors of the county of Alameda; and said supervisors shall proceed and compute the rate per centum necessary to be levied in order to raise such half of the cost of such improvements, and shall, by order, assess the same upon the taxable property in said township of Alameda, and the same shall be collected in the same manner, and by the same officer, as other county taxes, and when collected shall be paid to the treasurer of said commissioners. All such moneys so paid to said commissioners shall be devoted to the construction of said bridge and road, and the expenses attending the same.

§ 5. Said bridge and roadway, when completed, shall be at all times free and open for travel to the public. A draw tender shall be constantly on duty to pass

vessels through said draw. Said draw tender shall also act as and be one of the policemen of the city of Oakland, with the same compensation and to be paid in the same manner as other policemen of said city; provided, that the compensation of said policeman shall be paid, one half out of the road fund of the township of Alameda and one half out of the general fund of the city of Oakland.

§ 6. The said city council of the city of Oakland and the said bridge commissioners and the board of supervisors of Alameda County are hereby empowered to pass any and all orders and ordinances, and do any and all acts necessary in their judgment to carry into full effect the provisions of this act.

§ 7. This act shall take effect immediately.

SAN ANTONIO CREEK.

See tits. **Fish and Game; Oakland; San Antonio Estuary.**

SAN ANTONIO ESTUARY.

See tit. **Oakland.**

SAN BENITO COUNTY.

To create the county of San Benito, to establish the boundaries thereof, and to provide for its organization.

(Stats. 1873-4, 95, ch. LXXXVII; supplemented 1873-4, 428, ch. CCXCII.

The supplemental act is amended 1875-6, 177, ch. CLXXIV. The original act is amended 1887, 103, ch. LXXXVI.)

§ 1. There shall be formed out of the eastern part of Monterey County, a new county, to be called San Benito.

§ 2. The boundaries of San Benito County shall be as follows: Commencing at a point in the center of the Pajaro River, said point being the northwest corner of the Rancho las Arromitas y Agua Caliente, and being on the northern boundary line of Monterey County, and running thence in a southerly direction along the southwest boundary of said rancho to the southwest corner thereof; thence southerly in a direct line to the summit of the Gabilan range of mountains, and thence southeasterly along the summit of said Gabilan Mountains to the Chalon Peak; thence southeasterly in a direct line to the division line of the parts of the San Lorenzo Sobrantes Rancho owned respectively by Breen and Dunn, thence along said dividing line of said rancho to the southern boundary thereof; thence due south, to the San Lorenzo Creek; thence southeasterly up the center of said San Lorenzo or Lewis Creek, and up the north fork thereof, to the summit of the divide between the waters of said Lewis Creek and San Benito Creek; thence following said divide southerly to the eastern boundary of Monterey County and the summit of the Coast Range of mountains; thence northerly, following the summit of said mountains to where the range line between townships eighteen south, of ranges twelve and thirteen east, Mount Diablo meridian, crosses the same; thence northerly along said range line to the northeast corner of township eighteen south, range twelve east, thence northerly along said township line to the southeast corner of township sixteen south, range

twelve east, Mount Diablo base and meridian, thence northwest in a straight line to the northeast corner of township fourteen south, range nine east; thence in a straight line northwesterly, running toward the northeast corner of township thirteen south, range seven east, to a point where said line intersects the present boundary line between the counties of San Benito and Merced; thence along the present boundary line between the counties of San Benito and Merced to the northeast corner of San Benito County and southeast corner of Santa Clara County; thence following the present county line between the counties of Santa Clara and San Benito, and Santa Cruz and San Benito, to the place of beginning. The county of San Benito shall pay to the counties of Fresno and Merced the proportions of the respective indebtedness of said counties, equitably chargeable against said county of San Benito, the amount thereof payable to each of said counties to be ascertained and determined by the boards of supervisors of the counties of San Benito, Merced, and Fresno; and in determining the amounts justly chargeable to said San Benito County, said boards of supervisors shall ascertain the amount of the indebtedness of each of the counties of Fresno and Merced, and deduct therefrom the value of all county property and legal assets; and the county of San Benito shall pay such proportion of the balance of such indebtedness as the assessed value of the property in the territory transferred from said counties, respectively, to said San Benito County bears to the value of the property remaining in said counties of Fresno and Merced, according to the assessment rolls of said counties for the year anno Domini eighteen hundred and eighty-six; and the amounts thus determined by said boards of supervisors as justly payable by said county of San Benito to the respective counties of Merced and Fresno, shall be paid as other indebtedness of said county is or shall be payable. [Amendment, Stats. 1887, 103.]

§ 3. The seat of justice shall be at the town of Hollister until otherwise provided by this act.

§ 4. The governor of this state shall, when this act takes effect, appoint some suitable person, resident of San Benito County, to act as county judge of said county, whose term of office shall continue until the first Monday of January, one thousand eight hundred and seventy-six, and until his successor is elected and qualified, and who shall hold his office and reside at the county seat. There shall be chosen by the qualified electors thereof, at the judicial election to be holden in the year eighteen hundred and seventy-five, and every four years thereafter, a county judge for San Benito County, whose term of office shall commence on the first Monday of January succeeding his election, and continue for the term of four years. Said county judge of San Benito County shall receive a salary of twelve hundred dollars per annum, to be paid monthly. Said county judge shall hold the courts required by law to be held by county judges. There shall be four regular terms of the county court held in each year, said terms to commence on the first Monday in February, May, August and November; provided, however, the county judge may call and hold special terms of the probate court whenever public necessity may require. Said county judge shall discharge all the duties required by law of county judges in this state.

§ 5. There shall be an election held in the county of San Benito within sixty days from the first meeting of the commissioners hereinafter provided for. There shall be chosen at said election, by the qualified electors of said county,

one district attorney, one county clerk, who shall be ex officio auditor, recorder, and clerk of the board of supervisors, and ex officio clerk of the county, probate, and district courts, one county superintendent of public schools, one sheriff, who shall be ex officio county tax collector, one county assessor, one county treasurer, one county surveyor, one county coroner, who shall be ex officio public administrator. Said county officers shall hold their respective offices until the first Monday in March, anno Domini eighteen hundred and seventy-six, and until their successors are elected and qualified. There shall be chosen at the same election, by the qualified electors thereof, one supervisor for each supervisor district in said county, who shall hold their offices as follows: District number one, until the first Monday in January, anno Domini eighteen hundred and seventy-five; district number two, until the first Monday in January, anno Domini eighteen hundred and seventy-six; and district number three, until the first Monday in January, anno Domini eighteen hundred and seventy-seven. There shall be chosen at said election, by the qualified electors thereof, two constables for each township, and one road overseer for each road district in said county; provided that all the justices of the peace, elected at the judicial election held in the year anno Domini eighteen hundred and seventy-three, residents of San Benito County, shall hold their offices for the time provided by law, upon having duly qualified as justices of the peace of San Benito County for the respective township in which they severally reside, as said townships are organized by the action of the board of commissioners provided for by this act. The terms of offices of justices of the peace, constables, and road overseers of San Benito County, shall be the same as in other counties of this state. At said election shall also be submitted to the qualified electors the permanent location of the county seat of said San Benito County, and the place receiving the highest number of votes therefor shall be declared by the commissioners the permanent county seat of said county.

§ 6. The governor shall, when this act takes effect, appoint five persons, residents of the proposed county, who shall be and constitute a board of commissioners to perfect the organization of said San Benito County, a majority of whom shall constitute a quorum. Said commissioners shall meet in the town of Hollister, within twenty days after their appointment, and after being duly sworn to faithfully discharge their duties as prescribed by this act, shall organize, by electing from their number a president and clerk. They shall then divide said county into townships, define their boundaries, and designate the names of each. They shall also divide said county by townships into three supervisor districts, and number the same. They shall also establish election precincts, and appoint one inspector and two judges of election for each precinct in said county. They shall give thirty days' notice, by proclamation in some newspaper published in the county, of the officers to be elected, the precincts to be established, the officers of election, and shall designate the boundaries of each district, with their names and numbers. Said commissioners shall, on the second Monday after said election, meet at the county seat as a board of canvassers, and proceed to canvass the election returns. Said commissioners, their president and clerk, are hereby authorized and required to discharge the same duties as are now required by law of boards of supervisors and county clerks, in counties in this state, so far as the same applies to holding elections, canvassing election

returns, and issuing certificates of election. They shall keep a full record of all their proceedings, and file the same with the original election returns, in the county clerk's office, as soon as he shall have been qualified, and thereafter the powers and duties of said commissioners shall cease and determine.

§ 7. It shall be the duty of the board of supervisors of San Benito County, whose election is by this act provided for, to meet at the county seat on the first Monday of the month subsequent to their election and qualification, and elect the member from district number one chairman. They shall then allow such per diem and mileage to the commissioners and officers of election as they may think proper and just, and such allowance shall be paid by a warrant drawn in favor of each by the proper officers. The board of supervisors shall procure and provide a suitable building or buildings, to be used as a court-house and jail and for the accommodation of the various officers; and for such purposes they are hereby authorized to rent, or purchase, or construct, suitable buildings. And in case of purchase or construction, said board are authorized to issue bonds of said county, not exceeding the sum of twenty thousand dollars, bearing ten per centum per annum interest, and payable within such times as the board may direct, not exceeding fifteen years from the date of issue thereof; and, provided, that said bonds shall not be disposed of or sold on behalf of said county for a less sum than ninety cents on the par value thereof. The board shall, in accordance with the general laws governing boards of supervisors, levy state and county taxes; provided, that for the general fund they shall have power to levy not exceeding ninety cents on each one hundred dollars of value of taxable property in said county. They may also levy a tax not exceeding ten cents upon each one hundred dollars of value of the taxable property of said county, which, when collected, shall be set aside and known as the "Contingent Fund," and which shall be used exclusively for the payment of necessary repairs upon county buildings, for the purchase of record books, stationery, fuel, and lights for county offices; and, in case of the purchase or construction of county buildings, and the issue of bonds in payment therefor, then the board of supervisors are further authorized to make an additional levy, not exceeding twenty cents on each one hundred dollars of value of taxable property of said county, which, when collected, shall be set aside and known as the "Building Fund," and shall be used only in the redemption of bonds issued for the purpose of purchasing or constructing county buildings and paying yearly interest thereon.

§ 8. All actions, or proceedings in the nature of actions, whether original or upon appeal, civil or criminal, which shall be pending in the district court, county court, or probate court, in the county of Monterey, at the time of the organization of San Benito County, where the defendants therein reside in said San Benito County, shall be removed for trial and final determination to the proper courts of San Benito County, on motion of any party interested; and, provided, that all criminal causes, where the offense was committed within the limits of San Benito County, shall, upon application of the district attorney of San Benito County, be removed to San Benito County.

§ 9. The board of supervisors of San Benito County are hereby authorized to contract with some competent person for transcribing from the records of Monterey County such parts thereof as relate to property situated in San Benito County, and for such purpose shall provide suitable books, and said records,

when so transcribed and certified, shall have the same force and effect as such original records. The person so employed shall have access to said records of Monterey County for said purpose of transcribing the same. The compensation for said services shall be fixed and allowed by the board of supervisors of San Benito County, and paid out of the general fund of said county.

§ 10. The county of San Benito shall be attached to and form a part of the twentieth judicial district.

§ 11. The county officers of San Benito County shall, except as otherwise provided by this act, be elected at the same time as county officers in other counties of this state, and shall hold their offices for the term fixed by law. They shall give bonds for the faithful discharge of their duties, to be approved by the county judge, in the following sums: The sheriff, in the sum of eight thousand dollars, and as ex officio county tax collector, in the sum of twenty-five thousand dollars; the county clerk, in the sum of five thousand dollars, and as ex officio recorder and auditor, in the sum of five thousand dollars each; the county treasurer, in the sum of thirty thousand dollars; the district attorney, in the sum of four thousand dollars; the county surveyor, in the sum of three thousand dollars; the coroner and ex officio public administrator, in the sum of five thousand dollars; each supervisor, in the sum of two thousand dollars; and each justice of the peace, constable, and road overseer, in the sum of two thousand dollars. The supervisors of San Benito County shall provide for the election of their own successors, whose term of office shall be three years.

§ 12. All officers provided for by this act shall perform duties as required by the general laws of the state, unless otherwise provided by this act.

§ 13. The officers of San Benito County shall receive the following salaries and fees: The treasurer shall receive, per annum, the sum of one thousand dollars; the district attorney, the sum of twelve hundred dollars; the superintendent of public schools, the sum of five hundred dollars; the assessor, the sum of one thousand dollars per annum; and each member of the board of supervisors shall receive a per diem of five dollars, for each day's service as a member of the board, and twenty-five cents per mile in going to the county seat to attend the sessions of said board. The fees and salaries of all officers, except as herein specially named, shall be the same as now allowed said officers in Monterey County for like services.

§ 14. San Benito County shall be entitled to five notaries public as provided for by law.

§ 15. The superintendent of public schools of the county of Monterey shall furnish the superintendent of public schools of San Benito County with a certified copy of the last school census lists of the different school districts in the territory set apart to form San Benito County, and shall draw his warrant on the treasurer of Monterey County in favor of the superintendent of schools of San Benito County, for all money that is or may be due by apportionment or otherwise to the different school districts of San Benito County, and the auditor of Monterey County shall in like manner draw his warrant in favor of the auditor of San Benito County for all money that is or may be due by apportionment or otherwise to the different road district funds in the territory set apart to form San Benito County, and said money shall be paid into

the treasury of San Benito County, and be properly credited to the respective districts in said county.

§ 16. All delinquent taxes due to the county of Monterey at the time this act takes effect, from the persons or property in San Benito County, shall be paid to and collected by the proper officers of San Benito County, and the auditor of Monterey County shall certify such delinquent taxes and tax lists in duplicate to the collector and auditor respectively of San Benito County. They shall be collected by the officers of San Benito County in the same manner as delinquent taxes are collected in other counties in this state.

§ 17. All acts and parts of acts, so far as they conflict with the provisions of this act, are hereby repealed.

§ 18. This act shall take effect and be in force from and after its passage.

See supplemental act, next following.

In re Madera Irrigation Dist., 92 Cal. 296, 329, 27 Am. St. Rep. 106, 28 Pac. Rep. 272, 675, 14 L. R. A. 755n.

Supplementary to an act to create the county of San Benito, to establish the boundaries thereof, and to provide for its organization, approved February twelfth, eighteen hundred and seventy-four.

(Stats. 1873-4, 428; amended Stats. 1875-6, 177.)

§ 1. The board of supervisors of San Benito County are authorized and directed, at their regular meeting in May, eighteen hundred and seventy-six, to appoint two citizens and taxpayers residents of San Benito County, to act as members of a board of commissioners, with the powers and duties herein mentioned. The board of supervisors of Monterey County are authorized and directed, at their regular meeting in May, eighteen hundred and seventy-six, to appoint two citizens and taxpayers, residents of Monterey County, to act as members of the board of commissioners above named. The four persons appointed as above provided shall constitute a board of commissioners to determine and settle all financial differences between the said counties of Monterey and San Benito. Said commissioners shall meet on the first Monday in June, anno Domini eighteen hundred and seventy-six, at Salinas City, Monterey County, and, after being sworn, shall organize by appointing from their number a president and secretary, and shall immediately proceed to determine the indebtedness, if any, of Monterey County on the twelfth day of February, anno Domini eighteen hundred and seventy-four. Said indebtedness shall be not only that ascertained and established by the board of supervisors of Monterey County prior to said twelfth day of February, anno Domini eighteen hundred and seventy-four, but such indebtedness as was subsequently ascertained and determined and allowed by said board on bills and accounts which should have been presented to such board of supervisors prior to said date, and which were due and owing and legal charges against said Monterey County on said twelfth day of February. After ascertaining said indebtedness, they shall then ascertain the total market cash value of all the assets and real and personal property belonging to Monterey County at said date. They shall then, also, ascertain the assessed value, under the assessment of the year eighteen hundred and seventy-three, of the property of Monterey County and of the property in the territory hereby set apart to form San Benito County. Then, after deducting

the total value of assets and property aforesaid from said amount of said indebtedness, so as to ascertain the actual indebtedness, if any, the proportion due from the county of San Benito shall be ascertained as follows: As the total assessed value of property in the territory taken from Monterey County to form San Benito County is to the total assessed value of said Monterey County, so shall be the proportion of the actual indebtedness of San Benito County to Monterey County. But if said commissioners ascertain that the assets and property belonging to Monterey County exceed the said ascertained indebtedness as herein named, then they shall ascertain, in the same manner as herein named, the proportion thereof belonging to San Benito County, and when so ascertained, said commissioners shall certify to the board of supervisors of their respective counties the amount of said excess of debt or value. In case of the death, resignation, or failure to qualify of either of the commissioners herein appointed, the vacancy shall be filled by the board of supervisors of the county to which said commissioners belonged. If a majority of said commissioners cannot agree upon any of the matters herein submitted to them, then and in that event the Hon. David Belden, district judge of the third judicial district of the state of California, on the application of any two of said commissioners, shall appoint some citizen and taxpayer of this state, and not a resident of either of said counties. The person so appointed shall constitute a member of said commission, and the judgment of a majority of such commission shall be final. If said indebtedness exceeds the said value as herein named, then the board of supervisors of San Benito County shall cause to be issued forthwith the bonds of San Benito County, payable in five years from date of issue, to the county of Monterey for such sum as shall be so certified by said board of commissioners; and if said assets and property exceed said debt, then the board of supervisors of Monterey County shall cause to be issued the bonds of Monterey County, payable in five years from date of issue, to the county of San Benito, for such sum as shall be so certified by said board of commissioners to be due. In either case, the bonds so issued shall bear interest at the rate of seven per centum per annum, payable annually; and said board so issuing said bonds shall levy annually, and cause to be collected as other state and county taxes are collected, a tax of not less than three cents on each one hundred dollars of value of the taxable property in the county, which, when so collected, shall be set aside and appropriated to the payment of the interest on said bonds so issued, and shall be paid on said bonds whenever the amount of five hundred dollars shall have been received and said bonds presented for payment. [Amendment, Stats. 1875-6, 177.]

§ 2. Said commissioners shall receive ten dollars per day from their respective counties; provided, that if a fifth commissioner be appointed as herein provided, his services shall be paid by the two counties jointly. [Amendment, Stats. 1875-6, 177.]

§ 3. The terms of the district court, in and for San Benito County, shall be held on the first Mondays of April, August, and December; and the county courts, first Mondays of February and May, third Monday of August, and first Monday of November of each year.

§ 4. The terms of the probate court, in and for San Benito County, shall be held on the first Monday of every month.

§ 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. [Amendment, Stats. 1875-6, 177. Act also contained the following section: § 4. This act shall take effect on after its passage.]

SAN BENITO COUNTY—RECORDS.

To legalize and make valid the transcribed records of San Benito County.

(Stats. 1875-6, 512, ch. CCCLXX.)

§ 1. The transcribed records now in possession of the county clerk and county recorder of San Benito County, transcribed from the original records of Monterey County by W. M. R. Parker, under the order of the board of supervisors of San Benito County, heretofore made, are hereby declared to be valid, and the same shall be received in all the courts of this state, and in all proceedings, as evidence, with the full effect, and subject to the same objections only, as may be made to said originals. Certified copies of said transcribed records shall also be received with the same force and effect as certified copies of said original records.

§ 2. This act shall take effect immediately.

See next following statute.

SAN BENITO COUNTY—RECORDS.

Directing the transcription of all matters of record in the offices of the county clerks and county recorders of the counties of Fresno and Merced, concerning real estate in the territory taken from those counties and added to that of the county of San Benito by act of the legislature, entitled an act to amend an act to create the county of San Benito, to establish the boundaries thereof, and to provide for its organization, approved February twelfth, eighteen hundred and seventy-four, providing for a change and the establishment of the boundaries thereof, the same to include therein portions of the counties of Fresno and Merced, and to provide for the payment of the portions of the indebtedness of said counties equitably chargeable to San Benito County, approved March eleventh, eighteen hundred and eighty-seven.

(Stats. 1889, 107, ch. CV.)

§ 1. The board of supervisors of the county of San Benito is hereby directed, within sixty days after the passage of this act, to appoint some suitable and competent person to transcribe all matters of record in the offices of the county recorder and county clerk of the counties of Fresno and Merced, relative to the real estate or evidencing or concerning title to the lands embraced within the territory taken from the counties of Fresno and Merced and added to that of the county of San Benito by an act of the legislature entitled "An act to amend an act entitled an act to create the county of San Benito, to establish the boundaries thereof and to provide for its organization," approved February twelfth, eighteen hundred and seventy-four, providing for a change and the establishment of the boundaries thereof, the same to include therein portions of the counties of Fresno and Merced, and to provide for the payment of the portions of the indebtedness of said counties equitably chargeable to San Benito County.

§ 2. The person so appointed shall within six months from his said appointment fully and correctly transcribe or cause to be transcribed all of the records mentioned in this act, and shall index the same in separate index books in the same manner as similar matters are now required by law to be indexed. Upon the completion of said transcription by such person he shall certify to the correctness thereof and file the same in the office of the county recorder of the said county of San Benito, and the same shall thereafter be valid and considered a part of the records of said county of San Benito and shall be received in all the courts of this state or elsewhere, and in all proceedings as evidence, with the same force and full effect and subject to the same objections only as may be made to the records from which such transcription is made; that is to say, said transcription and all parts thereof shall be considered as prima facie evidence of the original records and the papers from which said original record was made, and shall be received in evidence the same as said original records. Certified copies of said transcription or parts thereof may in all cases be used with the same force and effect as certified copies of the original record might have been used, and the custodian of said transcribed records is hereby authorized to make certified copies of said transcribed records the same as other records.

§ 3. The person appointed and making such transcription shall receive as compensation therefor the sum of twenty-five cents per folio for all matters so transcribed, and ten cents for each name indexed; the same, together with the cost of all books, maps, and papers necessary for such transcription and indexing thereof, shall be a charge against said county of San Benito.

§ 4. The person appointed shall have access to all the records of said counties of Fresno and Merced for said purpose of transcribing the same.

§ 5. This act shall take and be in effect from and after its passage.

SAN BERNARDINO—CITY.

To grant to the town of San Bernardino all the interest of the state in certain real property.

(Stats. 1871-2, 362, ch. CCLXIII.)

§ 1. All the right, title, interest, and claim of this state in and to all real estate which was owned by the city of San Bernardino, or which said city had any interest in at the time of the passage of the act of the legislature of this state entitled "An act to repeal an act to authorize the incorporation of the city of San Bernardino," passed April thirteenth, eighteen hundred and fifty-four, approved March sixth, one thousand eight hundred and sixty-three, which may have vested in or escheated to the state in consequence of said city incorporation becoming extinct, is hereby granted to the present incorporated town of San Bernardino, in the county of San Bernardino, in its municipal capacity.

§ 2. The said municipality or incorporated town of San Bernardino is hereby authorized to have and to hold said property to itself, its successors, and assigns forever; and by its duly constituted authorities, to sell and dispose of the same, and to commence and prosecute to final judgment or determination any and all manner of suits and proceedings which the state might or could do in the premises to obtain and secure said property had this grant not been made.

§ 3. This act shall take effect immediately after its passage.

See tit. Municipal Corporations.

SAN BERNARDINO COUNTY.

Concerning the public records in the office of the county recorder of San Bernardino County.

(Stats. 1875-6, 853, ch. DLXI.)

§ 1. The board of supervisors of San Bernardino County are hereby authorized to require the recorder of said county to transcribe into suitable well-bound books, to be furnished to him by said county, any of the records belonging to his said office of county recorder which said supervisors may, by order, determine to be necessary in order to properly preserve said records.

§ 2. When so transcribed, any and all transcriptions of said records shall, for all purposes of evidence and constructive notice, be of equal force and effect as the original record.

§ 3. The county recorder shall be allowed the sum of twenty-five cents per folio by the board of supervisors, payable out of the general fund of said county, as compensation for making any transcription of such records, pursuant to the provisions of this act.

See also Act of 1860, 82, ch. CXI, legalizing records of San Bernardino County.

SAN BERNARDINO COUNTY.

To regulate and protect bee-keeping in the county of San Bernardino.

(Stats. 1877-8, 563, ch. CCCLXXXI.)

§ 1. Any person owning any hive or colony of honey bees, or any number of the same, in the county of San Bernardino, which are diseased with any infectious or contagious disease, who, for the space of ten days after being informed that the same are so diseased, fails to apply some approved and recognized remedy to cure the same, shall be and is hereby made liable to pay to any person suing therefor in any court of competent jurisdiction, a penalty of two and one-half dollars for each hive or colony so diseased, and to which such person has failed to apply such remedy.

§ 2. No person, other than one who is the owner of twenty hives or colonies of bees in said county, shall be entitled to sue for or recover any penalty under this act, and the recovery of such penalty, as to any hive or colony, by any one person, shall be a bar to any other suit for a like penalty as to the same hive or colony for the term of one year from the date of the judgment.

§ 3. In actions brought under the provisions of this act, the prevailing party shall be entitled to costs of suit.

§ 4. This act shall be in force from and after its passage.

SAN BERNARDINO COUNTY.

To provide an additional judge of the superior court of the county of San Bernardino.

(Stats. 1887, 19, ch. XXIV.)

§ 1. The number of judges of the superior court of the county of San Bernardino is hereby increased from one to two.

§ 2. Within ten days after the passage of this act, the governor shall appoint an additional judge of the superior court of said county of San Bernardino, who shall hold office until the first Monday after the first day of January, anno Domini eighteen hundred and eighty-nine, and at the next general election a judge of said court of said county shall be elected to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as that of the other judge of said superior court of said county.

§ 4. This act shall take effect and be in force from and after its passage.

People ex rel. Campbell vs. Waterman, 86 Cal. 27, 29, 24 Pac. Rep. 807; People ex rel. Hargrave vs. Markham, 104 Cal. 232, 235, 37 Pac. Rep. 918.

See tit. **Hunting on Private Property.**

SAN BUENAVENTURA—TOWN.

See tit. **Municipal Corporations.**

SAN DIEGO—CITY.

To authorize the president and trustees of the city of San Diego to convey certain real estate to the United States.

(Stats. 1867-8, 8, ch. XIV.)

§ 1. The president and trustees of the city of San Diego are hereby authorized and empowered to convey to the United States such pueblo or city lands of said city as the United States or the authorities thereof may require for military or naval purposes.

§ 2. This act shall take effect from and after its passage.

See also Act of 1875-6, 154, ch. CLIII, to convey lands to United States for correction of river channel to False Bay.

SAN DIEGO—CITY.

To legalize, ratify, and confirm deeds of conveyance and grants of lands within the pueblo lands of San Diego.

(Stats. 1869-70, 409, ch. CCCX.)

§ 1. All deeds of conveyance or grants of lands in fee, within the limits of the pueblo lands of San Diego, heretofore made, executed and delivered in good faith to any person or persons, by any ayuntamiento, town council, alcalde, syndie, or justice of the peace of the town or pueblo of San Diego, or by any mayor and common council or board of trustees of the city of San Diego, or by any person or persons acting as such ayuntamiento, town council, alcalde, syndie, justice of the peace, mayor and common council or board of trustees, are hereby legalized, ratified and confirmed, and shall be deemed, held and taken to convey a valid title in and to the premises therein specified, to the person or persons therein mentioned as grantee or grantees, and to their heirs and assigns, to the extent of the interest purporting or attempted to be conveyed or granted, as fully and effectually as though such deeds of conveyance or grants had been made in strict accordance with a decree or statute passed and enacted by the proper and appropriate legislative authorities, directing and authorizing the

same; provided, that nothing in this act contained shall be so construed as to legalize, ratify or confirm any lease for an indefinite amount of land, or for an indefinite period of time; and provided, that this act shall be so construed as to effect only deeds of conveyance and grants of land made prior to the second Monday in March, anno Domini one thousand eight hundred and sixty-eight.

SAN DIEGO—CITY.

Concerning conveyances by the municipal authorities of the city of San Diego.
(Stats. 1873-4, 85, ch. LXXVII.)

§ 1. No deed, conveyance, or grant of land in fee, made prior to the twenty-fourth day of November, anno Domini eighteen hundred and seventy-one, for and on behalf of the city of San Diego, and the inhabitants thereof, for a valuable consideration, by the corporate authorities of said city, shall be invalid by reason of the want of a corporate seal; but all of said deeds, conveyances, and grants, shall have the same force, effect, and validity, as if a corporate seal of said city had been regularly provided, and properly affixed thereto by the proper corporate authorities of such city.

§ 2. This act shall take effect immediately.

On same subject, see Stats. 1871-2, 309, ch. CCXXXIV.

See tit. **Municipal Corporations.**

SAN DIEGO COUNTY—JUDGES.

To increase the number of judges of the superior court of the county of San Diego, state of California, and for the appointment of such additional judges.

(Stats. 1889, 5, ch. VIII.)

§ 1. The number of judges of the superior court of the county of San Diego, state of California, is hereby increased from one (1) to three (3).

§ 2. Within ten days after the passage of this act, the governor shall appoint two additional judges of the superior court of the county of San Diego, state of California, who shall hold office until the first Monday after the first day of January, anno Domini eighteen hundred and ninety-one. At the next general election, two judges of the superior court of said county shall be elected in said county, who shall be successors of the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. The salaries of said additional judges shall be the same in amount, and be paid at the same time and in the same manner, as the salary of the other judge of the superior court of said county now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

People ex rel. Hargrave vs. Markham, 104 Cal. 232, 235, 37 Pac. Rep. 918.

SAN DIEGO COUNTY—JUDGES.

To reduce the number of judges of the superior court of San Diego County to two.

(Stats. 1895, 24, ch. XIV.)

§ 1. The number of superior judges in San Diego County is hereby reduced

to two; provided, that such reduction shall not affect any judge who has been elected in said county.

§ 2. This act shall take effect immediately.

SAN DIEGO COUNTY.

See tit. **Hunting on Private Property.**

SAN FRANCISCO.

Concerning water front of city and county of San Francisco.

(Stats. 1877-8, 263, ch. CCXIX; amended 1880, 31; 1889, 379; 1891, 233; 1895, 194; 1901, 627; 1905, 109, ch. CXIV.)

§ 1. So much of the line for a harbor embankment or seawall of the port of San Francisco, adopted on the twelfth day of September, one thousand eight hundred and seventy-seven, by the governor, the mayor of the city and county of San Francisco, and the state harbor commissioners, and indicated on the maps filed in the office of the said board of harbor commissioners and of the recorder of the city and county of San Francisco, as extends from the east line of Taylor Street to the boundary line between the city and county of San Francisco and the county of San Mateo, is hereby ratified and confirmed, and shall be known as the "Water Front Line" of the city and county of San Francisco; and so much of said line of harbor embankment or seawall as extends from the east line of Taylor Street to the eastern line of the Presidio Reservation is hereby annulled and vacated.

§ 2. The inshore limit of the jurisdiction of the board of state harbor commissioners shall be and remain the same as defined in section twenty-five hundred and twenty-four of the Political Code; but when any section of the seawall and thoroughfare hereinafter mentioned is constructed and ready for use, then the inshore limit of their jurisdiction as to such section shall be the inner line of said thoroughfare. But their jurisdiction in and over China, Central, South, India, and Dry Dock basins, and in and over Channel Street, and Islais Creek Channel, and the canal opening into South Basin, shall extend as far as the ebb and flow of tide-water.

§ 3. The said commissioners are authorized and directed to lay out and open along said water-front line a thoroughfare of the uniform width of two hundred feet, the inner line of which shall be parallel with the water-front line; provided, that its inner line between Market Street and Folsom Street shall correspond with the present line of East Street, and its inner line between Clay Street and Sacramento Street shall be a straight line drawn from the intersection of the north line of Clay Street, with the inner line of the thoroughfare to the intersection of the north line of Sacramento Street with the north line of Market Street extended, and its roadways and sidewalks shall conform to such deviation from its uniform width; provided further, that a sum not less than one hundred thousand dollars shall be expended in the construction of wharves, piers, ferry-slips, or bulkhead, on the water front between the westerly line of Mason Street and the easterly line of Kearny Street, as may seem best in the judgment of the state board of harbor commissioners; the said money to be expended, and the work to be done, within one year from and after the passage

of this act. It shall have a roadway of one hundred and eighty feet, and a sidewalk on its inner side of twenty feet in width. It shall be known and designated on the map of the city and county as "East Street." The said roadway shall be constructed and kept in repair by the said commissioners. It shall be constructed by contract, as provided in section twenty-five hundred and thirty-six of the Political Code, and be kept in repair as provided in section twenty-five hundred and twenty-four of same code. The sidewalk shall be constructed and kept in repair in the manner provided by law for the construction and repair of sidewalks on other streets of the city of San Francisco. In case the said roadway or sidewalk be obstructed, the said commissioners shall cause such obstructions to be removed in the manner provided in section twenty-five hundred and twenty-four of the Political Code, and section nine of this act; provided, that they may grant the use and occupation of spaces along the water front for offices and baggage rooms, and for scales for weighing freight, and may charge therefor a reasonable rent. The said commissioners shall have jurisdiction over said thoroughfare for the purposes of construction, repair, removal of obstruction, and collection of dockage, wharfage, rents, and tolls, and for commercial purposes; and no franchise or privilege for a railroad track along said thoroughfare shall be granted by the supervisors of the city and county of San Francisco.

§ 4. So much of the act approved March eleventh, eighteen hundred and seventy-four, entitled "An act to amend an act entitled an act to vacate certain streets, alleys, and marketplaces in the city and county of San Francisco, and to donate the same, and other tide-lands belonging to the state of California, to said city and county of San Francisco, for commercial purposes, and other matters relating thereto, approved March thirteenth, eighteen hundred and seventy-two, as grants to the city and county of San Francisco, the power to lease the basins known as China and Central basins, is hereby repealed; and the said basins, and also South, India, and Dry Dock basins, as laid out by the board of tide-land commissioners, and Channel Street, Islais Creek Channel, and the canal opening into South Basin, as far as the ebb and flow of tide in them, are hereby dedicated to public use for the purposes of commerce and navigation, and shall be subject, together with the streets inclosing or bounding on them, and the seawall and thoroughfare constructed across their openings, to the jurisdiction of the said commissioners, as provided in the act approved February twenty-eighth, eighteen hundred and seventy-six, entitled "An act to amend an act entitled an act to establish a Political Code, approved March twelfth, eighteen hundred and seventy-two, and to add a new section thereto." In case the seawall or thoroughfare be extended across them, openings therein, with proper drawbridges, shall be constructed, of sufficient width to allow free and easy entrance and exit, and then they shall be dredged to such depth as may be needed by the class of vessels using them.

§ 5. Whenever any section of the seawall and thoroughfare is constructed and ready for use, the board of supervisors shall cause the streets of the city to be extended and constructed, so as to intersect said section; and in case any such streets have been widened by the harbor commissioners, they shall be con[tracted] to their original width before such widening, and be so extended. When extended, they shall be deemed public streets, and their roadways and

sidewalks, to the intersection of the thoroughfare, shall be constructed and kept in repair in the manner provided by law for the construction and repair of the public streets of the city of San Francisco.

§ 6. The said commissioners shall have the possession, jurisdiction, and control over the blocks and parts of blocks formed by the change of the water front and the extension of the streets to the thoroughfare aforesaid, and remove any obstructions placed thereon in the same manner as provided for the removal of obstructions from the piers, wharves, and thoroughfares. The commissioners are authorized to keep and maintain said blocks and parts of blocks as open spaces for the use of the public, or they may, in their discretion, inclose them. The commissioners are also authorized to assign the use of such portion thereof as they deem expedient for such purposes solely as will be most advantageous to the commerce of the port, and upon such terms and conditions as they may determine. All such assignments shall terminate at the pleasure of the commissioners.

The commissioners are also authorized to lease such portion or portions of seawall lots, numbered one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, "a" and "b," as they may deem expedient for such purposes solely as will be most advantageous to the commerce of the port; provided, that before the execution of any lease, notice of the letting or leasing of any of the lots hereinbefore mentioned, or parts thereof, shall be given by publication in three of the daily papers published in the city of San Francisco for at least ten days; such notice shall state the lot or portion of lot to be leased, and that bids will be received by the commissioners at a place and time designated in such notice; and that said property shall be let to the highest and best bidder; provided further, that all bids for lease of lots, or portions of lots, herein mentioned, shall set forth the purposes for which said lots, or the portions thereof, shall be used, and that the statement of such bid shall be embodied in the lease given by the board of state harbor commissioners with the condition that the lot shall be used for such purposes only; provided further, that said board shall have power to reject any and all bids; and provided further, that in no event shall any such lease or leases be made for a term exceeding twenty-five years; provided, however, that all leases made and executed within two years preceding February fifteenth, nineteen hundred and one, and on file in the office of the secretary of state, of any lands belonging to the state less than fifty acres in area, and which lease has been made to any corporation incorporated in this state, or to any person or persons, for terminal facilities, is hereby recognized, approved and ratified, and the conditions, covenants, and agreements of the parties thereto are made binding on the said parties, and on their successors and assigns, and on the state of California. [Amendment, Stats. 1905.]

[Amendatory act of 1905 also contained following section:]

[§ 6a.] § 2. All acts and parts of acts in conflict herewith are hereby repealed.

[Amendatory act of 1880, 31, contained following sections, in reference to further powers of harbor commissioners, to wit, sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12:]

[§ 6b.] § 2. The said commissioners are authorized to set apart and use

that portion of the water front and thoroughfare situated between the west line of Powell Street and the north line of Francisco Street, for the landing and loading of grain and other merchandise, and may erect thereon such sheds and structures as may be necessary for sheltering the same; provided, that a roadway of not less than seventy-five feet on the inner side of the thoroughfare shall be left open for the passage of vehicles. They may, from time to time, fix the rates and prescribe the terms and conditions on which such sheds and structures may be used, and shall have the same control over them as over the wharves, and other parts of the water front; provided, that they shall assume or incur none of the duties or obligations of warehousemen.

[§ 6c.] § 3. The said commissioners are authorized to set apart spaces on the water front as depots for the landing of the passenger and freight cars of railroad companies, and may construct such docks, wharves and sheds as may be needed for that purpose. They must require a proper rent to be paid for such spaces and structures, and the dockage on the steamers transporting such cars, and the wharfage on merchandise put on or off such cars or passing through such depots shall be the same as prescribed by the general regulations of the board.

[§ 6d.] § 4. As soon as practicable the rates of wharfage on merchandise and other articles must be adjusted and classified upon such system, and be collected in such manner and by such officers as the commissioners may determine and direct. The duties of such officers, their compensation and amount of bond for faithful performance of duty, shall be fixed by the commissioners. When such system is put in force, no tolls must be collected by the load or vehicle, on any merchandise passing on or off the wharves, and the system of collection by toll collectors must cease.

[§ 6e.] § 5. (Repealed, Stats. 1891, 233.)

[§ 6f.] § 6. The master, owner or consignee of every vessel, and the owner, agent or manager of every railroad car, at the time of the arrival and before the departure of any such vessel or car, must deliver to the wharfinger or other proper officer of the commission, a full and correct statement, signed by him as such master, owner, consignee, agent or manager, of all merchandise of every kind intended to be discharged from or received on such vessel or car other than such as is referred to in section five of this act, specifying in detail the character and quantity of each kind of such merchandise; and in the case of an arriving vessel or car the names of the consignees or owners thereof, and also the port or place from which such merchandise is brought, or to which it is to be carried. In case any person shall neglect or refuse to deliver such statement as above provided, or shall wilfully make a statement false in any of the above recited particulars, he shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding fifty days, or by both such fine and imprisonment.

[§ 6g.] § 7. In case the master, agent or owner of any vessel, or the owner, agent or manager, of any railroad car, shall discharge from or receive on or allow to be discharged from or received on such vessel or car, any merchandise or other article other than such as is referred to in section five of this act, before the wharfage thereon has been paid, of which payment the only evidence shall be a receipt signed by the wharfinger, or other proper officer of the commission,

he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one hundred days, or by both such fine and imprisonment; provided, that the warrant of arrest may be discharged at any time before trial by the payment of the wharfage on such merchandise, or other articles wrongfully discharged or received, together with the costs of the legal proceedings.

[§ 6h.] § 8. The said commissioners may, by written permits, release parties from the obligation to deliver the statement required by section six, or to pay wharfage before the discharge or receipt of merchandise or other articles, as required by section seven; provided, that before any part of such merchandise or other articles are discharged or received, a proper and sufficient guaranty in writing shall be given to the said commissioners for the payment of all wharfage thereon. Such guaranty shall be deemed an original obligation on the part of the guarantor, and no other consideration therefor need exist or be expressed than the acceptance of the said permit.

[§ 6i.] § 9. (Repealed, Stats. 1891, 233.)

[§ 6j.] § 10. The lessees of the state or the commissioners shall charge and collect the same rates of dockage and wharfage as may be established by the said commissioners in pursuance of this act; provided, that this section shall not be deemed to confer any new or additional rights on any of said lessees.

[§ 6k.] § 11. Nothing in this act shall be deemed to divest the said commissioners of the lien on merchandise and other articles for its wharfage, or of the right to enforce such lien, as is provided by existing statutes.

[§ 6l.] § 12. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 7. The said seawall and thoroughfare is hereby declared a public use, in the laying out and construction of which the right of eminent domain may be exercised by the harbor commissioners, in the name of the people of the state, for the estates and rights, and in the manner provided in part three, title seven, of the Code of Civil Procedure; and said commissioners are authorized to pay out of the harbor improvement fund any compensation and damages assessed in such proceedings. But said commissioners, for the purpose of obtaining the material for such construction, may enter into contract without resorting to such proceedings.

§ 8. The commissioners are authorized to assign berths and slips for the exclusive use of sea-going steamers, ferry-boats, and steamboats navigating the waters of the bay of San Francisco and its tributaries, and to construct suitable offices, sheds, and inclosures for the accommodation of their business, and may charge for such exclusive use, a reasonable sum, irrespective of their tonnage or the number of days such berth is occupied.

§ 9. For the purpose of enforcing the charge for wharfage or tolls on goods, wares, and merchandise landed on any wharf, pier, or thoroughfare, or remaining thereon longer than the time prescribed by the harbor regulations, the said commissioners are authorized to take possession of such goods, wares, and merchandise, and if such charge be not paid within two days thereafter, may remove and store the same at the charge, risk, and expense of the owner or consignee thereof, or may sell the same by public auction, with or without notice, at their discretion; and for the purpose of keeping the wharves, piers, and

thoroughfares free of obstructions, the said commissioners shall cause a written notice to be served on the owner, agent, consignee, or person in possession of any such obstructing material or structure, or may post a notice thereon, at their discretion, requiring its removal within twenty-four hours thereafter; and, on failure to comply therewith, the commissioners may remove, store, or sell the same by public auction, at their discretion. From the proceeds of any such sale, they shall retain all the wharfage and tolls due, with ten per centum thereon, and in case of obstructions, twenty-five dollars for each and every [day] during which the wharf, pier, or thoroughfare has been obstructed, and also all the expenses attending such sale, and the surplus, if any, shall be paid to the proper party. Such sale shall be made subject to immediate removal.

§ 10. Any water-craft that shall leave any wharf, pier, quay, landing, thoroughfare, slip, dock, or basin, unless forced to do so by stress of weather, without first paying the dockage due from such vessel, shall be liable to pay, in addition to the penalty prescribed by section twenty-five hundred and twenty-four of the Political Code, the sum of ten dollars.

§ 11. This act shall take effect from and after its passage.

Stats. 1877-8, 263.—*People vs. Williams*, 64 Cal. 498, 502, 2 Pac. Rep. 393; *People vs. Pacific Imp. Co.*, 130 Cal. 442, 444, 62 Pac. Rep. 739.

SAN FRANCISCO—WATER FRONT.

To regulate the sales of perishable products on the wharves and other state property in the city and county of San Francisco by prohibiting such sales except by or in behalf of those holding permits from the board of state harbor commissioners and making such unlawful sales a misdemeanor, and prescribing the penalty therefor, and providing the conditions upon which such permits shall be issued.

(Stats. 1903, 73, ch. LXVI.)

§ 1. It shall be unlawful for any person to sell, upon the public wharves or other property belonging to this state, in the city and county of San Francisco, and within the jurisdiction of the board of state harbor commissioners, any fruit, vegetables, poultry, eggs, honey, game, or other produce commonly known, and hereinafter referred to as perishable products, unless such person or the person, firm or corporation, which he may duly represent, shall hold the permit hereinafter described authorizing such sales to be made. Any violation of this act shall be deemed a misdemeanor punishable by a fine of not less than twenty-five dollars or more than five hundred dollars.

§ 2. Perishable products consigned to persons, firms or corporations not holding the permit hereinafter described, and delivered by carrier upon any wharf on the San Francisco water front, must be removed from said wharf within twenty-four hours after their arrival, and the board of state harbor commissioners must levy and collect on such perishable products in addition to the regular state tolls, such additional wharfage as they may prescribe, but not less than the amount of the regular tolls, for each twenty-four hours or fraction thereof which such perishable products shall remain upon the wharf.

§ 3. Upon application of any person, firm or corporation receiving or expecting to receive perishable products to be delivered by carrier upon any wharf

on the San Francisco water front, the board of state harbor commissioners shall issue free of charge to such applicant, a permit authorizing him to sell such products when delivered on the wharves or state property, during the time such perishables are permitted to remain there, under the general regulations prescribed by the commission; provided, nevertheless, that said permit shall not be issued until the applicant shall have signed the application which shall read as follows:

“I (or we), — expecting to receive consignments of perishable products to be delivered by carrier on the wharves or other property of the state of California in the city and county of San Francisco, and desiring to dispose of the same before removal, hereby make application for a permit to be valid for one year from the date of issue, to sell perishable products on said wharves or other state property. In consideration of the receipt of such permit, I (or we) promise to faithfully observe all the regulations which are or may be prescribed by the board of the state harbor commissioners in regard to such sales, and in particular I (or we) agree that I (or we) will not, during the life of such permit, be a party to any conspiracy, agreement or understanding whereby I (or we) shall refuse to sell [to] any solvent purchaser or buy from any person whatever, and I (or we) agree that I (or we) will sell, impartially, and at the same prices, to all who desire to purchase for cash, without regard to their business or intended disposition of the products, and will exercise no discrimination whatever between buyers or sellers, by reason of their occupation, affiliations or non-affiliations. I (or we) also agree that in case of violation of this agreement, the board of state harbor commissioners may revoke the permit hereby applied for, whereupon I (or we) agree to surrender the same, and I (or we) agree that the board of state harbor commissioners shall be the sole judges of the fact of such violation, I (or we) having had a hearing in the matter.

“Date _____”

§ 4. The permit herein provided for shall be in such form as the board of state harbor commissioners may determine and shall be valid for one year from date of issue and no longer.

§ 5. In case of violation of his agreement by the holder of any permit the board of state harbor commissioners upon a hearing after giving due notice to all parties concerned, and finding the fact of such violation shall revoke and cancel the permit, and shall not issue a new permit to the offending party, except upon a new execution of the agreement hereinbefore set forth and the payment of a fee of fifty dollars, and the right to receive a new permit shall rest in the discretion of said board of state harbor commissioners.

§ 6. The board of state harbor commissioners and all its officials and employees are charged with the enforcement of this act, and shall eject from the wharves or other state property all persons found attempting to make sales in violation of this act. And the board of state harbor commissioners through such officials as it may from time to time designate, shall prosecute all violations of this act in the proper court.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

§ 8. This act shall take effect immediately.

The following acts would appear to have been superseded by Political Code, including amendments to the code, of recent years:

Relating to reduction of rates of wharfage, etc., 1871-2, 797.

Relating to repairs upon private wharves, 1873-4, 663.

Relating to San Francisco harbor commissioners, 1873-4, 910.

Relating to state, powers of, 1873-4, 912.

Relating to railroads along water front, San Francisco, 1889, 388.

Relating to East Street, San Francisco, 1891, 261.

See **KERR'S CYC. POL. CODE** § 2524, as amended 1901, 619; but consult the above-mentioned Act of 1901, 627.

As to permits for sale of products on water front, see **tits. San Francisco Water Front; China Basin.**

SAN FRANCISCO.

See **tits. Ferry Depot; Golden City Homestead Association; Harbor Commissioners; Municipal Corporations; Normal Schools; State Debt; State Officers.**

SAN FRANCISCO AND SAN JOAQUIN VALLEY R. R. LEASE.

See **tits. Public Officers—State—Contracts.**

SAN GABRIEL RIVER.

See **tit. El Monte Township.**

SANITARY DISTRICTS.

To provide for the formation, government, operation, and dissolution of sanitary districts in any part of the state, for the construction of sewers, and other sanitary purposes; the acquisition of property thereby; the calling and conducting of elections in such districts; the assessment, levy, collection, custody, and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity, and making provision for the payment of such bonds, and the disposal of their proceeds.

(Stats. 1891, 223, ch. CLXI; amended 1893, 88, ch. LXXVIII; 1895, 86, ch. XCV (see note); 1901, 633, ch. CCVIII; 1903, 121, ch. CIX; 1905, 94, ch. XCVI.)

§ 1. Whenever twenty-five persons in any county of the state shall desire the formation of a sanitary district within the county, they may present to the board of supervisors of such county a petition, in writing, signed by them, stating the name of the proposed district, and setting forth the boundaries thereof, and praying that an election be held as provided by this act. Each of the petitioners must be a resident and freeholder within the proposed district.

§ 2. When such petition is presented as above provided, the board of supervisors must, within thirty days thereafter, order that an election be held as provided by this act. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election persons to fill the offices provided by this act, viz.: a sanitary assessor, and five members of the sanitary board, will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presenta-

tion of a proper petition, and of the fact that each of the petitioners was, at the time of the signature and presentation of such petition, a resident and freeholder within the limits of the proposed district.

§ 3. A copy of such order shall be posted for four successive weeks prior to the election, in three public places within the proposed district, and shall be published for four successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

§ 4. The board of supervisors, at any time prior to the election, shall select one polling-place within the proposed district, and make all suitable arrangements for the holding of such election. The ticket shall contain the words, "For a sanitary district," or "Against a sanitary district," as the case may be, and the name of a person for sanitary assessor, and the names of five persons for members of the sanitary board. Such election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for. If a majority of the votes cast at such election shall be in favor of a sanitary district, the board of supervisors shall make and cause to be entered in the minutes an order that a sanitary district of the name and with the boundaries stated in the petition (setting forth such boundaries) has been duly established, and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the district. If a majority of the votes cast shall be against a sanitary district, the board shall, by order, so declare; no other proceedings shall be taken in relation thereto until the expiration of one year from the presentation of the petition.

§ 5. Every sanitary district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the sanitary board; to sue and be sued by its name; to construct and maintain, and keep clean such sewers and drains as in the judgment of the sanitary board shall be necessary or proper, and for this purpose to acquire by purchase, gift, devise, condemnation proceedings, or otherwise, such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the sanitary board shall be necessary or proper, and to pay for and hold the same; to make and accept any and all contracts, deeds, releases, and documents of any kind which, in the judgment of the sanitary board, shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to assess, levy, and collect taxes, to pay the principal and interest of the same, and the cost of laying and the expense of maintaining any sewer or sewers that may be constructed subsequent to the issuance of said bonds, or any lawful claims against said district, and the running expenses of the district; to employ all necessary agents and assistants, and pay the same; to lay its sewers and drains in any public street or road of the county, and for this purpose enter upon the same and make all

necessary and proper excavations, restoring the same to proper condition; but in case such street or road shall be in an incorporated city or town, the consent of the lawful authorities thereof shall first be obtained; to make and enforce all necessary and proper regulations for the removal of garbage, and the cleanliness of the roads and streets of the district, and for the purpose of guarding against the spread of contagious and infectious diseases, and for the isolation of persons and houses affected with such diseases, and for the notification of the other inhabitants of the existence thereof, and all other sanitary regulations not in conflict with the constitution and laws of the state; to make and enforce all necessary and proper regulations for suppressing disorderly and disreputable resorts, and houses of ill-fame within the district, and to determine the qualification of persons authorized to sell liquors at retail, and from and after the passage of this act no license to keep a saloon, or sell liquors at retail, shall take effect or be operative within any sanitary district unless the same be approved by the sanitary board of the district; to impose fines, penalties, and forfeitures for any and all violations of its regulations or orders, and to fix the penalty thereof by fine or imprisonment, or both; but no such fine shall exceed the sum of one hundred dollars, and no such imprisonment shall exceed one month; to call, hold, and conduct all elections necessary or proper after the formation of the district; to prescribe, by order, the time, mode, and manner of assessing, levying, and collecting taxes for sanitary purposes, except as otherwise provided herein; to compel all residents and property owners within the district to connect their houses and habitations with the street sewers and drains; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers, or the purpose for which it was formed. [Amendment, Stats. 1895, 85.]

§ 6. The officers of the district shall be a sanitary assessor and five members of the sanitary board.

§ 7. There shall be an election for sanitary assessor on every even-numbered year in which members of the sanitary board are elected, and at the same time, place, and manner; and the person then elected shall hold office for two years next thereafter, and until the election and qualification of his successor. The person elected assessor at the election at which the district was formed shall hold office until the election and qualification of his successor; provided, that if at any time a vacancy occur in the office of assessor, the sanitary board shall appoint a suitable person to fill such vacancy until the next election at which an assessor may be elected under the provisions of this act.

§ 8. It shall be the duty of the sanitary assessor to make out, before the first Monday in July of each year, a list of all the tangible real and personal property within the district. Such list shall contain a brief and general description of the property, an assessment of the value thereof, the name or names of the owner or owners, and such other matters as may be ordered by the sanitary board and such matters as shall be necessary to make such list conform to the provisions of the general laws of the state of California. The land shall be assessed separately from the improvements thereon. No mistake in the name of the owner of any of the real or personal property assessed, or any informality in the description, or in other parts of the assessment, shall

invalidate the same. The sanitary assessor shall verify said list by his oath before some officer authorized to administer oaths, and shall deposit the same with the sanitary board on the first Monday of July of each year, or as soon thereafter as is practicable. He shall have power to administer all oaths and affirmations necessary or proper in the performance of his duty as assessor, and shall receive such compensation as shall be fixed by the order of the board. He shall also perform such further duties and do such further acts as may be ordered or required by the sanitary board.

§ 9. There shall be an election for two members of the sanitary board in every even-numbered year, beginning with the second even-numbered year after the election at which the district was organized, and the two members then to be elected shall hold office until the election and qualification of their successors in the next even-numbered year; and there shall be an election for three members of the sanitary board in every odd-numbered year, beginning with the second odd-numbered year, after the election at which the district was organized, and the three members then to be elected shall hold office until the election and qualification of their successors in the next odd-numbered year. The five members elected at the election at which the district was organized shall, at their first meeting, or as soon thereafter as may be practicable, so classify themselves, by lot, that two of them shall go out of office in the second even-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act, and three of them in the second odd-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act. All elections for officers after the formation of the district shall be on the first Monday after the first Tuesday in the month of March. The members of the sanitary board shall receive no compensation whatever, either for general or special services.

§ 10. The sanitary board shall be the governing power of the district, and shall exercise all the powers thereof, except the making of an assessment list in the first instance, as herein provided. At its first meeting, or as soon thereafter as may be practicable, the board shall choose one of its members as president, and another of its members as secretary. And all contracts, deeds, warrants, releases, receipts, and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The board shall hold such meetings, either in the day or in the evening, as may be convenient. In case of the absence or inability to act of the president or secretary, the board shall, by order entered upon the minutes, choose a president pro tempore, or secretary pro tempore, or both, as the case may be.

§ 11. On the first Monday of July each year, at the hour of seven thirty o'clock p. m., the sanitary board shall meet at its usual place of meeting within said district, and proceed to organize itself into a board of equalization, and if the sanitary assessor has returned the assessment list for said year said board shall proceed to equalize the property so assessed and returned by said sanitary assessor. If said assessment list has not been returned by said sanitary assessor said board must adjourn from day to day until said assessment list has been returned, and for the purpose of adjournment one or more of

the members of said board present may make said adjournment and announce the same. Upon the assessment list having been returned by the assessor, said board of equalization shall proceed to equalize the property listed on said assessment list, and said board shall continue in session as a board of equalization until the property upon the entire list returned by the assessor shall have been examined, rectified and equalized, with such reasonable intermissions during the day and from day to day as may be expedient. The board shall have power to hear complaints as to the proceedings of the assessor, and to adjudicate and determine the controversy thereon, and may of its own motion raise an assessment, after such reasonable notice to the party whose assessment is to be raised, as may be ordered by the board. After the examination and rectification of the assessor's list shall have been completed, the board shall, by resolution, fix the rate of taxation for sanitary purposes, designating the number of cents on each one hundred dollars to be levied for each fund, and shall designate the fund into which the same shall be paid; but no more than fifteen cents on each one hundred dollars shall be levied for all the sanitary purposes of any one year, besides what shall be required for the payment of the principal and interest of such year upon outstanding bonds. After the entry in the minutes of the resolution fixing the rate of taxation, the sanitary board shall cause the assessor to compute the amount of the tax upon each piece of real and personal property, and enter the same upon the assessment list in a suitable place. The list, when so completed, shall be verified by the assessor and signed by the president and secretary; and the amount of the tax shall thereupon become a lien upon the property upon which it is assessed, and shall have the effect of a judgment against the person of the owner thereof, and every such lien shall have the force and effect of an execution duly levied against all the property of the delinquent; and the judgment shall not be deemed satisfied or the lien extinguished until the taxes are paid or the property sold to satisfy the same, and no statute of limitations shall apply; but no more than seventy-five thousand dollars of bonds shall be voted for or issued at any one time, nor shall the bonded indebtedness of the district ever exceed the sum of seventy-five thousand dollars at any one period, whether it be made up of one issue of bonds or of several issues. [Amendment, Stats. 1905, 94.]

§ 12. As soon as practicable after the taxes have been computed and extended on the assessment list, verified by the assessor and signed by the president and secretary of said board, the board shall transmit, or cause the assessor to transmit, a duplicate of the list so made to the tax collector of the county, who shall collect the taxes shown by said list to be due, in the same manner as he collects the county taxes, and all the provisions of the laws of the state as to the collection of taxes and delinquent taxes, and the enforcement of the payment thereof, so far as applicable, shall apply to the collection of taxes for sanitary purposes; and said tax collector, and the sureties on his official bond, shall be responsible for the due performance of the duties imposed on him by this act; provided, that the sanitary board may, in its discretion, direct the district attorney of the county to commence and prosecute suits for the collection of the whole, or any portion of the delinquent taxes; and it shall be the duty of the district attorney to carry out such directions of the sanitary board, and he, and the sureties upon his official bond, shall be respon-

sible for the due performance of the duty imposed upon him by this act; and provided further, that the sanitary board may, at any time, by order entered in its minutes, provide a system for the collection of delinquent taxes, or make any change in the manner of their collection, which as to such taxes shall have the force of law. All money collected for sanitary purposes by the district attorney under this act shall be at once paid to the county treasurer. [Amendment, Stats. 1905, 94.]

§ 13. The tax collector shall pay over to the county treasurer all moneys collected by him for sanitary purposes, as fast as the same shall be collected, and the said treasurer shall keep the same in the county treasury, as follows: In a fund called the bond fund of sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund; and no part of the money in this fund shall be transferred to any other fund, or be used for any other purpose than the payment of the principal and interest of the bonds of the sanitary district, so long as any such bonds shall be unpaid; in a fund called the running expense of sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund. The whole or any part of the money in the running expense fund may be transferred to the bond fund, or to the other fund hereinafter provided for, upon the order of the sanitary board, and it shall be the duty of the treasurer to comply with such order. The treasurer shall pay out moneys from either of said funds, or from the fund hereinafter mentioned, only upon the written order of the sanitary board, signed by the president and countersigned by the secretary, which order shall specify the name of the person to whom the money is to be paid and the fund from which it is to be paid, and shall state generally the purpose for which the payment is made, and such order shall be entered in the minutes of the sanitary board. The treasurer shall keep the order as his voucher, and shall keep a specific account of his receipts and disbursements of money for sanitary purposes. The treasurer and sureties upon his official bond shall be liable for the due performance of the duties imposed upon him by this act. The treasurer shall keep the money arising from the sale of bonds in the fund hereinafter mentioned.

§ 14. At any time after the district is organized, the sanitary board may, by order entered in the minutes, call an election for the purpose of determining whether bonds shall be issued for the construction of sewers. Such order shall fix the day of the election and shall specify the amount of money to be raised, and shall state in general terms the purpose for which it is to be raised. A copy of such order shall be posted for four successive weeks prior to the election in at least three public places within the district, and shall be published for four successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

§ 15. At any time prior to the day fixed for the election, the board shall select one, and may select two, polling-places within the district, appoint officers of election, and make all necessary and proper arrangements for holding the election. The tickets shall contain the words "For the issuance of bonds as proposed by the sanitary board," or "Against the issuance of bonds

as proposed by the sanitary board." The election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector resident within the district for the length of time necessary to enable him to vote at a general election shall be entitled to vote at the election above provided for. After the votes shall have been announced, the ballots shall be sealed up and delivered to the secretary or president of the sanitary board, which shall, as soon as practicable, proceed to canvass the same, and shall enter the result upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, two thirds of the votes cast be in favor of the issuance of bonds, as proposed by the sanitary board, the said board shall thenceforth have full power and authority to issue and dispose of bonds as proposed in the order calling the election. [Amendment, Stats. 1893, 88.]

§ 16. All bonds issued under the provisions of this act shall be of such denomination as the sanitary board may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars. Said bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district is situated, and shall bear interest at a rate not exceeding five (5) per centum per annum, which interest shall be payable semiannually in like gold coin. Not less than one-twentieth part of the total issue of bonds shall be payable each year, on a day to be specified by the sanitary board, but no bonds shall be payable in instalments, but each bond issued hereunder shall be payable in full on the date specified therein by said board. Each bond shall be signed by the president and countersigned by the secretary of the sanitary board, and said bonds shall be numbered consecutively, beginning with number one (1), and shall have coupons attached referring to the number of the bond to which they are attached, which coupons shall be signed by the president and countersigned by the secretary of said board. The bonds must be disposed of by the sanitary board in such manner and in such quantities as may be determined by said board in its discretion, but no bond must be disposed of for less than its face value. The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund to be called the sewer construction fund of ——— sanitary district (naming it); the money in such fund shall be used for the purpose indicated in the order calling the election upon the question of the issuance of the bonds, and for no other purpose; provided, that if after such purposes are entirely fulfilled any balance remain in such fund, such balance may, upon the order of the sanitary board, be transferred to either of the other funds provided by this act. If the result of the election be against the issuance of bonds no other election upon the question shall be called or held for a period of one year. Whenever the entire amount of bonds issued by any one district under the provisions of the act of which this is amendatory shall be presented by the holder or holders thereof to the sanitary board of the sanitary district issuing the same, there shall be exchanged therefor and issued in lieu thereof to such holder or holders, by the sanitary board, bonds issued in accordance herewith for the

various instalments payable on the so surrendered bonds and said new bonds so issued in exchange for said old surrendered bonds shall be payable at the same times and places as the instalments due under the old bonds; it being the intention hereof to permit the surrender of sanitary district bonds heretofore issued payable in instalments by the holders thereof, and the exchange therefor of a like amount of bonds of such sanitary district having a denomination equal to the instalments payable under one or more of the bonds heretofore issued by any one sanitary district; said new bonds to be payable at the same time as said instalments and in equal amounts; the amount of said new bonds to be payable in any one year to equal the amount of the instalments on said old bonds payable in such year. All expenses of the exchange shall be borne by the holder of the bonds presented for exchange, and interest on the new bonds shall be paid at the same time and rate as on the old bonds. Upon such exchange being effected the old bonds shall be canceled by punching holes in the signatures thereto attached, and shall be retained by the treasurer of said county as evidence of such cancelation. [Amendment, Stats. 1901, 633.]

§ 17. It is hereby made the duty of the sanitary board to levy, each year, upon the property within the district, a sufficient tax to pay off the interest accruing upon said bonds for the respective year, as it falls due, and also to pay one twentieth of the principal of said bonds, so that the entire amount of principal and interest of said bonds shall be paid within twenty years from the date of the issuance of said bonds; and it is hereby made the duty of the tax collector, or such other person as may be charged with the duty of collecting the sanitary taxes, to collect the said taxes so to be levied, and the duty of the sanitary board to order the same to be paid, in manner and form as provided by this act, and the duty of the county treasurer to pay the same. If, for any reason, any portion of the tax for any year remains unpaid, and in consequence thereof any portion of the interest or principal due for any year remains unpaid, the same shall be added to the levy for the next year, and be collected and paid accordingly. The payment of the whole amount of the principal and interest of all of said bonds, within twenty years from their issuance, is hereby made the imperative duty of the district; and, if necessary for that purpose, a special tax shall be levied; and it is hereby made the duty of every officer and board to do his respective part towards the levy, collection, and payment of such tax; and mandamus shall issue from the superior court of the county in which the district is situated, or from any other competent court, upon application of any party interested, for the purpose of compelling the performance of the duty imposed by this act upon any and all officers or boards.

§ 18. If the result of any election upon the question of the issuance of bonds be in favor of such issuance, the sanitary board may, in their discretion, before such issuance, commence, in the superior court of the county, a special proceeding to determine their right to issue such bonds and the validity thereof, similar to the proceeding in relation to irrigation bonds, provided for by an act entitled "An act supplemental to 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation puposes,' approved March seventh, eighteen hundred and eighty-

seven, and to provide for the examination, approval, and confirmation of proceedings for the issue and sale of bonds issued under the provisions of said act;" and all the provisions of said act shall apply to and govern the proceedings so to be commenced by the sanitary board, so far as the same are applicable; and said proceedings shall be in accordance with the provisions of said act, so far as the same are applicable, and the judgment in such proceedings shall have the same effect as a judgment in relation to irrigation bonds under the provisions of said act.

§ 19. Any general regulation of the sanitary board shall be by order entered in the minutes, but such order shall be published once a week for one week in some newspaper published within the district, if there be one, and if there be no such newspaper then such order shall be posted for one week in three public places within the district. A subsequent order of the board that such publication or posting has been duly made shall be conclusive evidence that such publication or posting has been properly made. Orders not establishing a general regulation need not be published or posted (unless otherwise provided by this act), but shall be entered in the minutes, and the entry shall be signed by the secretary of the board. A general regulation shall take effect immediately upon the expiration of the week of publication or posting thereof. An ordinary order shall take effect upon the entry in the minutes.

§ 20. The board may instruct the district attorney of the county to commence and prosecute any and all actions and proceedings necessary or proper to enforce any of its regulations or orders, and may call upon said district attorney for advice as to any sanitary subject; and it shall be the duty of the district attorney to obey such instructions and to give advice when called on by the board therefor. The board may at any time employ special counsel for any purpose. All fines for the violation of any regulation or order of the sanitary board shall, after the expenses of the prosecution are paid therefrom, be paid to the secretary of the board, who shall forthwith deposit the same with the county treasurer, who shall place the same in the running expense fund of the district.

§ 21. The district may at any time be dissolved upon the vote of two thirds of the qualified electors thereof, upon an election called by the sanitary board upon the question of dissolution. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, the property of the district shall vest in any incorporated city or town that may at said time be in occupation of a considerable portion of the territory of the district, and if there be no such incorporated city or town, then the property shall be vested in the board of supervisors of the county until the formation of such a city or town; provided, however, that if at the time of such election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such indebtedness; and from the time such district is thus dissolved until such bonded indebtedness, with the interest thereon, is fully paid, satisfied, and discharged, the legislative authority of said incorporated city or town, or the board of supervisors, if there be no such incorporated city or town, is hereby constituted *ex officio* the sanitary board of such district. And it is hereby made obligatory upon such board to levy such taxes and per-

form such other acts as may be necessary in order to raise money for the payment of such indebtedness and the interest thereon, as herein provided.

§ 22. The sanitary board shall have power at any time after main sewers, or other sewers are laid, to order and contract for the construction of a sewer in any street or part of a street of the district where a sewer is not already constructed, and to provide by such order that the cost thereof shall be borne by the property fronting along the line of the sewer as ordered. Before ordering any work done, or improvement made, which is authorized by this section, the sanitary board shall pass a resolution of intention so to do and describing the work. The secretary of the board shall thereupon cause to be conspicuously posted along the line of said contemplated work, or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notices shall, in legible characters, state the fact of the passage of the resolution, its date and briefly the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for a period of five consecutive days in a daily newspaper published and circulated in said district, and designated by said sanitary board, or by one insertion in a weekly newspaper so published, circulated and designated. If there be no newspaper published and circulated in said district, then and in that case said secretary shall post said notices in three public places in said district in addition to said posting along the line of said work or improvement. Any owner of property fronting upon said proposed work or improvement may make a written objection to the same within fifteen days from and after the first publication of said notice, or from and after the day of the posting of said notice if the same cannot be published as herein provided, which objection shall be delivered to the secretary of the sanitary board, who shall indorse thereon the date of its reception by him. The sanitary board shall, at its next meeting after the time for presentation of objections has expired, fix a time for hearing said objections, not less than one week thereafter. The secretary of the sanitary board shall thereupon notify the person or persons making such objection, by depositing a notice thereof in the United States post-office in said district, or if there be none in said district, then in the one nearest thereto, postage prepaid, addressed to each objector, or his agent, when such objector appears by agent. At the time specified said sanitary board shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. Upon such decision or at the expiration of the said fifteen days, if no written objection to the work therein described has been made as aforesaid by any owner of the property fronting on said work or improvement, the sanitary board shall be deemed to have acquired jurisdiction to order any work to be done, or improvement to be made, authorized by said resolution and this section. After said sanitary board has acquired jurisdiction to do such work and make such improvement, it may order the work done and improvement made, and provide in such order a time for receiving bids, and likewise authorize the president and secretary of the sanitary board to enter into a contract for the performance of said work and making of said improvement. Such order shall be published for a period of five consecutive days in a daily newspaper published and circulated in said district, and designated by said sanitary board, or by one insertion in a weekly newspaper so published, circu-

lated and designated, and in case there be no such newspaper published and circulated in said district, then and in that event, such order shall be posted in at least three public places in said district; and at the opening of said bids the board must award the contract to the lowest responsible bidder, or may reject any and all bids and readvertise for bids and upon the opening of such bids award the contract to the lowest responsible bidder, unless the board is satisfied there is collusion between bidders, when it may again reject the bids and again advertise for bids until they are satisfied the bids are fair and not made under collusion or fraud when it must award the contract. And in case such order is made and such contract is let, then the cost of such work and improvement done under such contract shall become a lien upon and shall be assessed against such blocks, lots and lands fronting upon said work and improvement as would be assessable for said work and improvement under the provisions of that certain act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, and acts amendatory and supplemental thereto, and the manner, method and mode of such assessment and collection of such assessment and foreclosure of such lien shall be made in accordance with the provisions of section six and subsequent [sections] of said act and acts supplemental and amendatory to such provisions; provided, however, that the words "city council" used in said act shall be understood to mean "sanitary board;" the words "superintendent of streets" and "city engineer" shall be understood to mean "the engineer of such sanitary district;" the words "city" and "municipality" shall be understood to mean "sanitary district;" the words "clerk" and "city clerk" shall be understood to mean "secretary of said sanitary board;" the term "treasurer" or "city treasurer" shall be understood to mean any person or officer who shall have charge of and make payment of the funds of such sanitary district; and further provided, that all the powers and duties conferred by the said provisions of said act and acts amendatory and supplemental thereof upon city councils, superintendent[s] of streets, clerks and city clerks, and treasurers and engineers and city engineers are hereby conferred and imposed upon the respective officers and board above specified. [Amendment, Stats. 1903, 121.]

§ 23. All acts and parts of acts in conflict with this act, or any portion thereof, are hereby repealed.

§ 24. This act shall take effect immediately.

Stats. 1891, 223.—People ex rel. Cuff vs. City of Oakland, 123 Cal. 598, 600, 56 Pac. Rep. 445. § 5—In re Werner (uncon.), 129 Cal. 567, 568, 62 Pac. Rep. 97.

Stats. 1895, 86.—Stumpf vs. Board Supervrs., 131 Cal. 364, 365, 82 Am. St. Rep. 350, 63 Pac. Rep. 663. § 5—In re Werner, 129 Cal. 567, 570, 62 Pac. Rep. 97.

SANITATION.

See tits. Factories and Workshops; Sanitary Districts.

SAN JOAQUIN COUNTY—ADDITIONAL JUDGE.

To provide one (1) additional judge of the superior court of the county of San Joaquin, state of California; for the manner of his election and for his compensation.

(Stats. 1905, 100, ch. CIV.)

§ 1. From and after the first day of January, anno Domini one thousand nine hundred and seven, the number of judges of the superior court of the county of San Joaquin, state of California, is hereby increased from two to three.

§ 2. At the general election to be held in November, anno Domini one thousand nine hundred and six, one additional judge of the superior court of the county of San Joaquin, state of California, shall be elected and hold office in the manner prescribed by the constitution and by law.

§ 3. The salary of such additional judge shall be the same in amount and be paid in the same manner and at the same time as the salaries of the other judges of the superior court of said county, now authorized by law.

SAN JOAQUIN COUNTY—LEVEES.

To authorize John Parrott, Samuel Clark, J. L. Keagle, Rufus Franklin, William Heart, Robert Boice [Boyce], D. P. [B.] McNeal, their associates and assigns, to construct, maintain, complete, and repair certain levees in San Joaquin County.

(Stats. 1877-8, 48, ch. XXXVI.)

§ 1. The right is hereby granted to John Parrott, Samuel Clark, J. L. Keagle, Rufus Franklin, William Heart, Robert Boyce, D. B. McNeal, their associates and assigns, to construct, maintain, complete, and repair certain levees on the south bank of the Mokelumne River, in San Joaquin County, and commencing for the same near the southeast corner of the southeast quarter of section thirty-five, in township four north, range six east, and running thence down said river on the second bench, and as near said river as practicable, and connecting with a levee already constructed; then commencing at the lower end of said levee and running from thence to half section line in section thirty-four, township four north, range number six east; then commencing near the northeast corner of the northeast quarter of section thirty-three, township number four north, range number six east, and running thence along the second bench as near said river as practicable, to a certain live oak tree, near the northeast corner of the southeast quarter of section seventeen, township number four north, range number six east.

§ 2. The parties aforesaid, their associates and assigns, may construct the said levee of such dimensions as in their judgment they may deem proper, and may acquire right of way for said levees, and may take materials for the construction, maintenance, completion, and repairs thereof from either side of said levees.

§ 3. If the parties aforesaid, their associates and assigns, cannot procure consent of the owners of the lands or material needed, they may proceed under the provisions of title seven, part three, of the Code of Civil Procedure, for the condemnation thereof.

§ 4. The levees already constructed at certain points along the line of said proposed levee are hereby legalized.

§ 5. This act shall take effect and be in force from and after its passage.

SAN JOAQUIN COUNTY—RECORDS.

Concerning certain records in the county of San Joaquin.

(Stats. 1857, 228, ch. CXCIV.)

§ 1. Book "A," in the office of the county recorder of the county of San Joaquin, and especially known as "Book A, Archives of Stockton," is hereby declared and made a perfect record, in as full and ample a manner as if the same had been made since the passage of "An act concerning county recorders" (passed March twenty-sixth, eighteen hundred and fifty-one), and the instruments transcribed therein shall be evidence and notice from and after the passage hereof, to all persons, in the same manner as if they were properly acknowledged, recorded, and certified, under said act of March twenty-sixth, eighteen hundred and fifty-one.

§ 2. Book "B" of the "Archives of Stockton," is hereby legitimated in like manner as book "A" aforesaid; and the county recorder of said county is hereby required to transcribe the deeds in said book "B," into the record of deeds now kept and used by him; and such transcription by him shall have all the force and effect of an original record, properly acknowledged, certified and recorded.

§ 3. The county recorder of said county is hereby required to procure the proper books, and make the proper books of indices to all records in his office, to which there are now not accurate and perfect indices, and such as are required to be kept by the said "Act concerning county recorders" (passed March twenty-sixth, eighteen hundred and fifty-one).

§ 4. The supervisors of said county, are hereby authorized and required to audit the accounts of the said county recorder of said county, for such an amount, as will be reasonable and ample compensation for the services required of him, by this act, including pay for books to be procured by him in the premises, the amount of which account shall be paid out of the county treasury of said county.

SAN JOAQUIN COUNTY—PROTECTION DISTRICTS.

To provide for the better protection of certain lands in San Joaquin County from overflow.

(Stats. 1871-2, 861, ch. DLXXXIV.)

§ 1. Whenever a majority of the owners of any body of lands situated in that part of San Joaquin County bounded by a line beginning at a point on the United States segregation line one mile due north from the Calaveras River on the section line between sections twenty-eight and twenty-nine, township two north, range six east, Mount Diablo meridian; thence following said segregation line northerly to the center of section two, township three north, range five east, Mount Diablo meridian; thence due east to the center of section three, township three north, range seven east, Mount Diablo meridian; thence due south to a point one mile north of the Calaveras River; thence westerly parallel with and one mile distant from said river to the point of beginning, shall petition in writing the board of supervisors of San Joaquin County for

the establishment of a canal and embankment district within the limits aforesaid, it shall be the duty of said board of supervisors to appoint a day, which shall not be more than ten days after the presentation of said petition, to hear and consider said petition, and on the day appointed they shall proceed to hear and consider the same; and if said board of supervisors are satisfied that no land is improperly included or excepted from said proposed district, they shall grant the same, and their clerk shall keep a record thereof, and cause each of the districts so organized to be numbered consecutively.

§ 2. Said petition provided for in section one shall contain a correct and full description of the boundaries of said proposed district, with the reasons why the organization of the same is deemed necessary, and shall be sworn to by at least one of the petitioners.

§ 3. If said petition be granted by said board of supervisors, it shall be the duty of the clerk of said board, within twenty days thereafter, to call a meeting of the landholders of said district at some convenient place therein, for the election of three persons to act as trustees of said district. Said trustees shall have the power to levy upon all the property in said district such an amount of tax in each year, not exceeding the sum of one dollar and fifty cents on each one hundred dollars in any one year, as they may deem necessary to protect and preserve said district from overflow; said taxes, when collected, to be expended by said trustees by day's work or contract in the cutting and repair of canals and drains and the erection and repair of embankments, dams, weirs, and floodgates, and the doing of all such acts as they may deem necessary for the protection of said district from overflow; provided, that no water shall be turned from its natural course any more than is absolutely necessary for the protection of the district without the consent of all parties interested therein. Said trustees shall hold office two years, and shall call meetings of the landholders of the district, by giving at least ten days' notice for the election of their successors. At the time for the election of trustees an assessor shall be elected by the landholders, who shall also be collector of taxes, and shall receive such compensation as the board of trustees may determine, and shall hold his office for the term of two years, or until his successor is elected and qualified. All trustees and assessors shall be elected by a majority vote of the landholders present at any meeting called for such purpose. Any right of way needed by said trustees, if the same cannot otherwise be obtained, shall be procured in the same manner as is provided by law for the procuring of rights of way by railroad corporations. The trustees shall sit as a board of equalization; and within ten days after the assessor shall have finished his assessment he shall submit the same to said board of trustees, and they shall give at least ten days' notice previous to sitting as such board of equalization, by posting notices in three public places in said district; and they shall perform said equalization in a similar manner to the board of supervisors when they sit as a county board of equalization.

§ 4. All moneys collected under the provisions of this act shall be paid into the county treasury of San Joaquin County to the credit of the district, and shall be paid out of the county treasury of said county upon warrants duly issued by the trustees of the district.

§ 5. The trustees of each district shall keep accurate minutes in full of all their transactions, and an accurate record of the affairs of the district, which minutes and record shall be open to the inspection of any landholder in the district.

§ 6. The assessor authorized to be elected under the provisions of this act shall, when called upon by the board of trustees of their respective districts, immediately proceed to assess the value of the property in his district; and after such assessment has been equalized as hereinbefore authorized, he shall carry out in separate columns the totals of valuation and the totals of taxes charged to each person; and the several boards of trustees of the district organized under this act are hereby empowered to make such provisions for the assessment and collection of taxes as may be necessary for that purpose; and all taxes that may be delinquent shall be collected in the same manner as is provided for the collection of state and county taxes.

§ 7. This act, or any proceedings thereunder, shall not apply to or in any way interfere with reclamation districts already formed under the state law, the lands of which are already reclaimed, or under process of reclamation.

§ 8. This act shall take effect from and after its passage.

See tit. Protection Districts.

SAN JOAQUIN RIVER.

Concerning public wharves.

(Stats. 1871-2, 657, ch. CCCCXLII.)

§ 1. The owners or occupants of any uplands bordering on the San Joaquin River, between the eastern boundary line of Contra Costa County and the junction of said river with the Sacramento River, may erect and maintain from such upland to ships' channel a wharf not exceeding fifty feet wide, with a T at the outer end thereof not exceeding one hundred feet in length.

§ 2. The right of way and the right to construct such wharf over any lands belonging to the state of California covered or partly covered with water between ships' channel and the upland is hereby granted to the owner or occupant of such upland.

§ 3. The person or persons erecting and maintaining such wharf or wharves shall not use the same for any purposes except for the convenience of himself and tenants, and the successors in interest of the lands owned by him at the time of the first erection of such wharf, and shall not, under any pretext, charge, receive, or collect any tolls, wharfage, or dockage for the use thereof.

§ 4. In case the lands covered with water situate between ships' channel and extreme high tide over which and upon which the owner of the adjoining upland is desirous of erecting and maintaining a wharf shall have become vested in any third person, it shall be lawful for the owner of such upland to acquire the right to erect and maintain a wharf over the same, not exceeding the dimensions in section one of this act mentioned, by instituting and conducting to a final determination such proceedings for the acquisition and condemnation of lands as are authorized by the provisions of an act entitled "An act to provide for the incorporation of railroad companies and the manage-

ment of the affairs thereof, and other matters relating thereto," approved May twentieth, eighteen hundred and sixty-one, and the several acts supplemental thereto and amendatory thereof; and jurisdiction is hereby conferred upon the same courts and judges as is conferred by said act, to entertain and determine the proceedings instituted hereunder.

§ 5. Upon payment of the sum awarded by the final report of the appraisers to ascertain and determine the sum to be paid for the taking of land for the use aforesaid, such riparian owner shall have the exclusive right to the use of the land described in such report, for the uses and purposes mentioned in section one of this act; provided, such payment be made within twenty days after the final confirmation of such report.

§ 6. No right or privilege hereby granted shall continue beyond fifty years from the passage of this act.

§ 7. This act shall apply to all wharves already constructed between the points aforesaid.

§ 8. This act shall take effect immediately.

SAN JOAQUIN VALLEY RAILROAD—CHINA BASIN, SAN FRANCISCO.

See tit. State Officers.

SAN JOSE CITY—HIGH SCHOOL.

Authorizing and empowering the board of school trustees of the city of San Jose, county of Santa Clara, state of California, to erect, construct, and build and maintain, at the expense of said city of San Jose, a high school building on the north side of the state normal school grounds at San Jose, between Fifth and Seventh Streets in said city.

(Stats. 1897, 167, ch. CXI.)

§ 1. The state of California hereby authorizes and empowers and grants to the board of school trustees of the city of San Jose, county of Santa Clara, the right and privilege to erect, construct, build, and maintain a high school building, and conduct and carry on a high school therein at the expense of said city of San Jose, on the grounds of the state normal school at San Jose; said building to be erected on the north side of said normal school grounds, between Fifth and Seventh Streets in said city, at such point as may be agreed upon between the board of trustees of said state normal school and the board of school trustees of said city of San Jose. And the right and privilege is hereby granted to said city of San Jose to enter into and upon the lands and premises necessary for the said high school building, and grounds necessary to the use thereof, for the purpose of laying water and gas mains and pipes, or for the erection of electric light poles and wires, and for all other purposes necessary to the building and constructing of such high school building and the maintenance of a high school therein.

§ 2. The city of San Jose shall keep so much of the lands and premises belonging to said state normal school as may be used by said city of San Jose for the use of said high school in good condition at the expense of said city of San Jose, and shall gravel and care for the walks in and upon the lands so

used for high school purposes, and maintain and care for the grass plots and ornamental trees and shrubs, and beautify and ornament so much of said lands and premises as may be agreed upon between the board of trustees of said normal school and the board of school trustees of said city.

§ 3. This act shall take effect immediately.

SAN JOSE—CITY.

See tit. Municipal Corporations.

SAN LEANDRO CREEK.

See tit. Fish and Game.

SAN LEANDRO—TOWN.

See tit. Municipal Corporations.

SAN LUIS OBISPO.

See tits. California Polytechnic School; Municipal Corporations; San Luis Obispo—City; San Luis Obispo County.

SAN LUIS OBISPO—CITY.

To settle the title to lands in the town of San Luis Obispo.

(Stats. 1867-8, 245, ch. CCXLIII.)

§ 1. The public lands within the corporate limits of the town of San Luis Obispo, county of San Luis Obispo, described as follows, to wit: The west half and the northeast quarter of the southeast quarter, and the southwest quarter, and the southwest quarter of the northwest quarter, of section number twenty-six; and the southeast quarter of the northeast quarter, and the east half of the southeast quarter, of section number twenty-seven, and the east half of the northeast quarter of section number thirty-four; and the west half and the northeast quarter of the northwest quarter of section number thirty-five, township number thirty south, range number twelve east, of Mount Diablo meridian—containing six hundred and forty acres—shall be entered at any time after the passage of this act, at the proper land office of the United States, by the board of trustees of said town, in trust for the several use and benefit of the occupants of said town, according to their respective interests, in accordance with the provisions of an act of Congress entitled an act for the relief of the inhabitants of cities and towns upon public lands, approved March second, eighteen hundred and sixty-seven.

§ 2. Immediately after the making of said entry and the approval thereof by the proper authority, the board of trustees of said town shall cause notice to be given by publication in any newspaper printed and published in said town, if any, and if none, then by posting the same at the places designated by the board of supervisors of said county as the places for posting legal notices in said county, under the provisions of an act of the legislature of this state, approved April twenty-seventh, eighteen hundred and fifty-seven, relative to the publishing of legal notices in the counties of San Luis Obispo and Santa Bar-

bara, requiring all occupants or claimants of any town lot or lots, or parcels of land within the limits above described, to file in the office of the board of trustees of said town, within one year from the expiration of said notice, a statement of his, her or their claim, describing particularly the lot or lots or parcels of land so claimed or occupied, and setting forth the nature and grounds of the claim set up. Said publication, if made in a newspaper, shall be made by insertion therein once a week for the term of three months; and if by posting, said notices shall be posted for said term, said notices to be renewed at least once per month during said term in case of the same being torn down or removed, and said notices to be printed.

§ 3. Within sixty days after the expiration of the time limited in the notice as aforesaid, proof of such claim and payment of the price fixed by the board of trustees on the lot or lots or parcels of land claimed as hereinafter provided must be made, and no claim shall be filed nor any proof shall be permitted to be made after the terms respectively prescribed in this and the preceding section, except upon proof of meritorious claim and good cause shown to the board of trustees for the failure to before present such proofs and claim.

§ 4. The expenses incurred in entering and surveying the lands as provided in this act, and the amount required to be paid for said land at the proper land office, shall be by the board of trustees of said town assessed and apportioned equally upon all the lots or parcels of land in said town; and no claim shall be allowed nor deed executed to any claimant or claimants unless payment be made of the proportion due from such claimant or claimants.

§ 5. The evidence required to establish any claim to any lot or lots or parcels of land in said town, under the provisions of this act, shall be that the claimant thereof is in the peaceable and actual possession of the same.

§ 6. The board of trustees shall proceed to dispose of the lots or parcels of land claimed, as provided for in this act, and for that purpose shall, as soon as practicable, examine each and every claim filed as herein provided, and any papers in support of the same, and hear such proof as the claimant or claimants may submit to establish his or their rights thereto; and if the same shall be found to comply with the provisions of this act, and no conflicting claims shall have been filed, the board of trustees shall make, execute and deliver to each claimant a deed of the lands claimed by him or her; and provided further, that the board of trustees may by ordinance determine the size of the town lots to be so conveyed and the amount of land that may be conveyed to any one person.

§ 7. In all cases where there shall be a dispute or contest in regard to the title to any lot or lots or parcels of land in said town, the board of trustees shall hear the testimony relating thereto, and shall decide thereupon, and shall thereupon make, execute and deliver their deed or deeds to the person or persons to whom they shall award the same; provided, however, nothing contained in this act shall be so construed as to prevent any person or persons aggrieved by the decision of the said board of trustees from pursuing his, her or their right to any such lot or lots or parcels of land at law before the proper legal tribunals.

§ 8. The deeds herein mentioned shall be quitclaim deeds, conveying to such claimant or purchaser all the right, title and interest of said town in and to the lands therein described. They shall be signed and sealed by the president

of said board of trustees; and such deeds, and the certified copies thereof duly attested as by law required, shall be taken in all the courts of justice and judicial proceedings as prima facie evidence that all the estate, title and interest at any time had, held or owned by said town, in and to the lands described in such deed, has passed thereby to the grantee therein named and to his successors in interest.

§ 9. All lots or parcels of land remaining unproved at the expiration of the time specified in section three of this act shall be deemed, held and taken to be the property of said town, and shall be held as such in trust by the board of trustees, and shall be disposed of in such manner as they may prescribe by ordinance duly made and published.

§ 10. Whenever a patent shall issue to said town from the United States, it shall inure to the several benefit of those whose claims have been confirmed and who have received deeds from the said board of trustees, to every intent as though the same had been issued directly to them, without any further or additional conveyance; and it is hereby made the duty of the said board of trustees to cause said patent, when so issued, to be recorded in the recorder's office of said county.

§ 11. All deeds of conveyances heretofore made, executed and delivered by the several boards of trustees of said town, from its organization on February first, eighteen hundred and fifty-eight, to the present time, to any person or persons, of any lands within the territorial limits above described, are hereby legalized, ratified and confirmed, and shall be deemed, held and taken to confer title in the premises therein specified to the person or persons therein mentioned as grantee or grantees, and to his or her heirs and assigns, as fully and effectually as though the same had been executed subsequently to the passage of this act and in the manner above described.

§ 12. Ordinances numbered severally two and thirteen (2 and 13) of the board of trustees of the said town, passed respectively May ninth and October twenty-ninth, anno Domini eighteen hundred and fifty-nine, relating to the laying out of streets, lanes and public squares, and adopting Hutton's map of said town, are hereby approved, ratified and confirmed, but the board of trustees of said town shall have power to alter or modify the said survey in any particular and to order and procure to be made any new or extended or additional survey of the said town.

§ 13. This act shall take effect from and after its passage.

See tit. **Municipal Corporations.**

SAN LUIS OBISPO COUNTY.

Concerning the county records of the county of San Luis Obispo.

(Stats. 1860, 11, ch. XXI.)

§ 1. The county recorder of the county of San Luis Obispo is hereby authorized and required, on receipt of an order from the board of supervisors of said county, to transcribe, in such manner and into such books as are prescribed by section twelve of the act entitled "An act concerning county recorders," passed March twenty-sixth, anno Domini one thousand eight hundred and fifty-one, all

the records of deeds and mortgages now existing in his office, as well as all such other legal records existing in said office and in his custody as the said board shall deem necessary and proper.

§ 2. The transcript hereby authorized to be made shall contain in each book the whole of the corresponding record of said county appropriate to the said book, up to the date of the completion of the said transcript; and immediately upon said completion it shall be the duty of the said recorder to inscribe in such book, at the end of the portion of the transcript therein made, his certificate to the effect that the same is a full, true, and complete transcript, of the whole of the record of said county appropriate to the said book.

§ 3. Immediately upon the affixing of the certificates mentioned in the last section, the books in which the same shall be inscribed, shall be and become the legal record books of the said county for the class of records to which the same are respectively appropriate, and the said recorder shall thereafter employ and use the same as such legal books of record.

§ 4. Such records as were legalized by the act of the legislature of California of May fifth, anno Domini one thousand eight hundred and fifty-five, to legalize certain records in the county of San Luis Obispo, shall not be transcribed in one book, but the same shall be separated, the one from the other, and shall each be transcribed in its proper order and place, in the appropriate books of record.

§ 5. It shall be lawful for the board of supervisors of the said county, to fix a limit of time within which the said transcripts shall be required to be made.

§ 6. The transcript herein authorized to be made, and every part and parcel thereof, shall be held to have the same validity, force, and effect, as the original record; and legally certified copies thereof shall be received and read in evidence in all courts, in the same manner and with like effect as copies of the original record.

§ 7. The original books of record so transcribed as herein authorized shall be preserved in a secure place by the said recorder, and shall be open to inspection as other records; and nothing herein contained shall be so construed as to impair the force or validity of the same, or of any duly certified copy thereof.

§ 8. The county recorder shall receive for all services under this act, including the certificates to the correctness of the said transcript and making the proper notes and indices, nine cents per folio, for all words and figures necessarily used in the said transcript, and no other compensation whatsoever shall be charged or allowed on account of services under this act; and the said recorder shall be liable upon his official bond for the neglect or improper performance of the services herein provided to be rendered by him.

§ 9. All claims for services performed under and by virtue of this act, shall be audited and allowed in the same manner as other claims against the said county, and shall be payable in warrants drawn upon the general fund of said county.

SAN LUIS OBISPO COUNTY.

Providing for an additional superior judge for the county of San Luis Obispo, and providing for his appointment and salary.

(Stats. 1889, 6, ch. IX.)

§ 1. The number of judges of the superior court of the county of San Luis Obispo, state of California, is hereby increased from one (1) to two (2).

§ 2. Within ten days after the passage of this act, the governor shall appoint one additional judge of the superior court of the county of San Luis Obispo, state of California, who shall hold office until the first Monday after the first day of January, anno Domini one thousand eight hundred and ninety-one. At the next general election, one judge of the superior court of said county shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. Such additional judge of the superior court shall receive such salary as may be allowed by law at the time of his appointment and qualification, which shall be paid in the same manner as the salary of the judge of the superior court of said county is now paid.

§ 4. This act shall take effect immediately.

People ex rel. Hargrave vs. Markham, 104 Cal. 232, 235, 37 Pac. Rep. 918.

SAN LUIS OBISPO COUNTY.

See tit. **Hunting on Private Property.**

SAN LUIS OBISPO COUNTY—JUDGES.

Providing that the office of the judge of the superior court of the county of San Luis Obispo, state of California, now held by Judge D. S. Gregory, shall cease upon a vacancy occurring therein.

(Stats. 1889, 333, ch. CCXXII.)

§ 1. Upon the office of the judge of the superior court of the county of San Luis Obispo, state of California, now held by Judge D. S. Gregory, becoming vacant, by resignation or otherwise, such office shall cease; and thereafter there shall be but one judge of the superior court in and for the county of San Luis Obispo, state of California.

§ 2. This act shall take effect immediately.

People ex rel. Hargrave vs. Markham, 104 Cal. 232, 235, 37 Pac. Rep. 918.

SAN MATEO COUNTY.

To declare certain tide-lands public grounds, and granting the same to the county of San Mateo in trust for the use of the public.

(Stats. 1893, 42, ch. XXIV.)

§1. That all the tide-lands between the line of high and low tide, described below, are hereby dedicated as public grounds, and the title thereto is granted to the county of San Mateo in trust for the use of the public, and without the power to sell or in any manner dispose of the same, or any part thereof; said lands shall be made and kept accessible to the public for the purposes aforesaid. The lands above mentioned are described as follows: Being all the lands between high and low tide along the shore of the Pacific Ocean commencing at the mouth of Pescadero Creek, and running southerly with the shore line of said ocean to a point known as the mouth of "Bean Hollow Lagoon," about three

miles distant, and including all those tide-lands usually known and called "Pebble Beach," situate, lying, and being in the county of San Mateo, state of California.

See tit. *Hunting on Private Property*.

SAN PEDRO, NEW.

To change the name of "New San Pedro," a town in Los Angeles County.

(Stats. 1863, 328, ch. CCLII.)

§ 1. It shall be lawful for the town in Los Angeles County, hitherto known as "New San Pedro," to be changed to the name of Wilmington.

See tits. *San Pedro Bay; Municipal Corporations; Pilots*.

SAN PEDRO BAY.

See tit. *Pilots*.

SAN RAFAEL—TOWN.

See tit. *Municipal Corporations*.

SANTA BARBARA—CITY.

To legalize certain grants and sales made by the ayuntamiento of the pueblo, and by the mayor and common council of the city of Santa Barbara, of lands belonging to the said pueblo and city.

(Stats. 1861, 371, ch. CCCLXV.)

§ 1. All grants of lots, or parcels of land, within the jurisdiction of Santa Barbara, heretofore made by the ayuntamiento of the pueblo of Santa Barbara, in conformity to the laws and regulations in force at the date of said grants, in the department of Upper California, and for which titles have been duly issued, are hereby ratified and confirmed.

§ 2. All grants and sales heretofore made in good faith by the mayor and common council of the city of Santa Barbara, of lands belonging to said city, and for which proper conveyances have been executed by the mayor and common council of said city, are hereby approved, ratified, and confirmed; provided, however, that nothing in this act shall be so construed as to ratify, approve, or confirm, any grant, or sale of any lands, made by the mayor and common council of said city, of which any person, or persons, other than the grantee, or grantees, named in the conveyance, or their successors in interest, were at the date of the grant, or sale, in peaceable possession under color of title, or otherwise; or upon which any person, or persons, other than the grantee, or grantees, named in the conveyance, or their successors in interest, had erected any building, or buildings, or made other valuable improvements; and, provided, further, that nothing in this act shall be so construed as to ratify, approve, or confirm, any grant made of any of the plazas, or portions of them, as such plazas are designated in the official map of the city of Santa Barbara, since the existence of such map.

§ 3. All titles, or conveyances of lands made and issued by the proper officers, in virtue and in pursuance of any grant of lands made by the ayuntamiento of

the pueblo of Santa Barbara, or by the mayor and common council of said city, as specified in this act, and in accordance with the provisions of this act, shall be valid, and invest the grantee, or grantees, and their successors in interest, with all the right, title, and interest, of the said pueblo and city of Santa Barbara, to all intents and purposes, according to the terms and conditions of such grants or sales.

§ 4. A certain book of record, kept by the former ayuntamiento of Santa Barbara, entitled "Acuerdo de Titulis," shall be deposited by the custodian thereof, in the office of the recorder of the county of Santa Barbara, where it shall remain as a part of the records of said county; and anything contained therein, may thereafter be read as prima facie evidence of the acts recited therein, without further proof of its authenticity; and such book of records shall be in like manner as legally recorded conveyances, notice to all persons of the contents thereof, from the time of such deposit.

§ 5. This act shall take effect from and after its passage.

See tit. **Municipal Corporations.**

SANTA BARBARA—CITY.

To legalize and confirm certain grants and sales of town lands by the board of trustees of the town of Santa Barbara, and by the mayor and common council of the city of Santa Barbara, made since the passage of the act of March thirty-first, one thousand eight hundred and sixty-six.

(Stats. 1869-70, 666, ch. CCCCLVIII.)

§ 1. All grants or sales of lots or parcels of land within the limits of the survey of the pueblo lands of Santa Barbara, as made by the United States surveyor-general in and for the state of California, by virtue of the final decree of confirmation thereof, made by the mayor and common council of the city of Santa Barbara, or by the board of trustees of the town of Santa Barbara, in conformity to ordinances of said city or town in force at the time the grants or sales aforementioned were made, and for which titles or conveyances have been duly issued and signed by the proper city authorities, or by the president and secretary of the board of trustees of the town, since the passage of the act of March thirty-first, eighteen hundred and sixty-six, are hereby ratified and confirmed.

§ 2. This act shall take effect from and after its passage.

Under the charter of Santa Barbara, 1873-4, 330, ch. CCXXVIII. See *City of Santa Barbara vs. Eldred*, 95 Cal. 378, 383, 30 Pac. Rep. 562.

SANTA BARBARA COUNTY.

Concerning conveyances in the county of Santa Barbara.

(Stats. 1873-4, 61, ch. LXIV.)

§ 1. All deeds of conveyance of lands in the town of Santa Barbara, acknowledged and recorded by Charles E. Cook, formerly county clerk and ex officio county recorder of the county of Santa Barbara, in which the said Cook was the grantee, shall be deemed and held to be valid in all respects, and as duly and legally acknowledged and recorded as if the said Cook had no interest therein.

§ 2. Duly certified copies of the deeds mentioned in the first section of this act, may be read in evidence, under the same circumstances and rules as are now or hereafter may be provided by law, for using copies of instruments duly executed and acknowledged.

§ 3. This act shall take effect and be in force from and after its passage.

See tit. **Hunting on Private Property.**

SANTA CLARA—TOWN.

To authorize the corporate authorities of the town of Santa Clara to take and hold in trust and convey certain lands.

(Stats. 1871-2, 306, ch. CCXXX.)

§ 1. Whereas, the Congress of the United States has by an act thereof entitled "An act to quiet title to land in the towns of Santa Clara and Petaluma, in the state of California," approved March first, eighteen hundred and sixty-seven, has, among other things, relinquished and granted all the right and title of the United States to the land situated within the corporate limits of said town of Santa Clara to the corporate authorities of said town, and their successors in trust, for and with authority to convey so much of said land as was at the date of said act in the bona fide occupancy of parties by themselves or tenants, to such parties; now therefore, in order to more effectually carry out the provisions of said trust, the board of trustees of the town of Santa Clara, and their successors in office, are hereby declared to be the corporate authorities of the town of Santa Clara, named in said act of Congress, for the purposes of holding the legal title to the lands mentioned in said act within the corporate limits of the said town of Santa Clara, and of executing said trust in reference thereto.

§ 2. Said board of trustees, on application of any person entitled to the benefits of said trust, shall, by resolution entered on their minutes, direct the president of said board to execute and deliver in the name of and for and on behalf of said board, a deed of conveyance to such person, conveying to him all the title, legal and equitable, acquired by the corporate authorities of said town under said act of Congress, in and to the lands to which he may be so entitled. And the president of said board of trustees shall thereupon execute, acknowledge, and deliver for and on behalf of said board such deed of conveyance to the person so applying therefor of the lands to which he may be so entitled. Such deed shall be prima facie evidence that the grantee therein named is the legal and equitable owner of the lands therein described.

§ 3. Said board of trustees shall have power to hear and determine, under such rules as it may prescribe, all claims and applications by any and all persons for lands under the provisions of said act of Congress, and of conflicting claims between individuals for the same tract or tracts of lands; provided, such determination shall not prejudice any valid adverse right or claim to said lands or any part thereof, if such exists, nor preclude a judicial investigation and determination thereof, if the same shall be instituted within one year after the execution of the conveyance hereinbefore provided for.

See tit. **Municipal Corporations.**

SANTA CLARA COUNTY—JUDGES.

To increase the number of judges of the superior court of the county of Santa Clara, and to provide for the appointment of an additional judge.

(Stats. 1897, 7, ch. IX.)

§ 1. The number of judges of the superior court of the county of Santa Clara is hereby increased from two to three.

§ 2. Within ten days after the passage of this act the governor shall appoint one additional judge of the superior court of the county of Santa Clara, state of California, who shall hold office until the first Monday after the first day of January, anno Domini eighteen hundred and ninety-nine. At the next general election a judge of the superior court of the said county shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as the salary of the other judges of the superior court of the said county, now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

SANTA CLARA COUNTY—RECORDS.

To legalize certain records in the recorder's office of the county of Santa Clara.

(Stats. 1861, 507, ch. CCCCLVIII.)

§ 1. That the six books of records, labeled and numbered respectively, number one, number two, number three, number four, number five, and number six, which were formerly of the records of the office of the alcalde, and other officers of the late Pueblo de San Jose de Guadalupe, and which are now kept as a part of the records of the county recorder's office of the county of Santa Clara, shall continue to be, and form a part of, the legal records of the said recorder's office.

§ 2. That any of the original deeds, conveyances, or other instruments in writing, whereby any real estate, or any right, title, or interest therein, situated within the present limits of the city of San Jose, is conveyed, or may be affected, which are of record in said books of record, may be offered in evidence, in the same manner and with the same force and effect, in all cases, as if they had been produced from the custody of the person claiming under, or through, such deed, conveyance, or other instrument in writing.

§ 3. That the record, or a transcript of the record, certified by the recorder under his seal of office, of any of the deeds, conveyances, or other instruments in writing, whereby any real estate, or any right, title, or interest therein, situated within the limits of the city of San Jose, is conveyed, or may be affected, which appears of record in either of said books of record, shall have the same force and effect as evidence as a duly certified transcript of the record of a deed duly recorded by the county recorder.

§ 4. That the record of every such deed, conveyance, or other instrument in writing, as aforesaid, shall impart notice to all persons of the contents thereof,

and subsequent purchasers and mortgagees, shall be deemed to purchase and take with notice.

§ 5. This act shall take effect and be in force from and after its passage.

See next two following statutes.

SANTA CLARA COUNTY—RECORDS.

To authorize the board of supervisors of Santa Clara County to have certain Spanish records translated into English.

(Stats. 1863, 11, ch. VIII.)

§ 1. The board of supervisors of the county of Santa Clara are hereby authorized to employ some competent Spanish scholar, or scholars, to translate from Spanish into English the Spanish records of every kind and description now on file in the recorder's office in said county.

§ 2. The said translator, or translators, as the case may be, shall be sworn by the clerk of said board of supervisors to make a true and careful translation from Spanish into English of all and every part of said Spanish records.

§ 3. The translation provided for in this act, when completed, shall be submitted to the examination of said board of supervisors; and if approved by them, shall be recorded in one or more blank-books, as they shall direct, and be deposited in the recorder's office of said county, and shall remain on file in said office, and shall be a part of the lawful records of said county.

§ 4. All expenses incurred by the said board in carrying out the provisions of this act, shall be paid out of the contingent fund of said county.

§ 5. This act shall take effect and be in force from and after its passage.

See last preceding and next following statutes.

SANTA CLARA COUNTY—RECORDS.

Concerning the county records of the county of Santa Clara.

(Stats. 1869-70, 779, ch. DXXII.)

§ 1. The county recorder of the county of Santa Clara is hereby authorized and required, on receipt of an order from the board of supervisors of said county, to transcribe in such manner and into such books as are prescribed by section twelve (12) of an act entitled an act concerning county recorders, passed March twenty-sixth, anno Domini one thousand eight hundred and fifty-one, all records of deeds and mortgages now existing in his office, as well as all such other legal records existing in said office and in his custody, as the said board shall deem necessary and proper.

§ 2. The transcript hereby authorized to be made shall contain in each book the whole of the corresponding record of said county, appropriate to said book, up to the date of the completion of the said transcript; and immediately upon said completion, it shall be the duty of said recorder to inscribe in such book, at the end of the portion of the transcript therein made, his certificate to the effect that the same is a full, true and complete transcript of the whole of the record of said county, appropriate to the said book.

§ 3. Immediately upon the affixing of the certificates mentioned in the last

section, the books in which the same shall be inscribed shall be and become the legal record books of the said county for the class of records to which the same are respectively appropriate, and the said recorder shall thereafter employ and use the same as such legal books of record.

§ 4. It shall be lawful for the board of supervisors of the said county to fix a limit of time within which said transcript shall be required to be made.

§ 5. The transcript herein authorized to be made, and every part and parcel thereof, shall be held to have the same validity, force and effect as the original record; and legally certified copies thereof shall be received and read in evidence in all courts, in the same manner and with like effect as copies of the original record.

§ 6. The original books of record so transcribed, as herein authorized, shall be preserved in a secure place by the said recorder, and shall be open to inspection as other records; and nothing herein contained shall be so construed as to impair the force or validity of the same, or of any duly certified copy thereof.

§ 7. The county recorder shall receive for all services under this act, including the certificates to the correctness of the said transcript, and making the proper notes and indices, twelve cents per folio for all words [and] figures necessarily used in the said transcript, and no other compensation whatsoever shall be charged or allowed on account of services under this act; and the said recorder shall be liable, upon his official bond, for the neglect or improper performance of the services herein provided to be rendered by him.

§ 8. All claims for services performed under and by virtue of this act shall be audited and allowed in the same manner as other claims against the said county and shall be payable in warrants drawn upon the general fund of said county.

See last two preceding statutes.

SANTA CRUZ—CITY.

See tit. Municipal Corporations.

SANTA CRUZ COUNTY.

See tit. Parks, Public.

SANTA MONICA.

See tits. Municipal Corporations; Sea-gulls.

SANTA RITA—TOWN.

To change the name of the town of New Republic, in the county of Monterey, state of California, to Santa Rita.

(Stats. 1873-4, 823, ch. DLXXXII.)

§ 1. The name of the town of New Republic, in the county of Monterey, state of California, is hereby changed to that of "Santa Rita."

§ 2. All acts done or performed by any trustees or other town authorities of New Republic, shall be deemed valid, and of the same force and effect as though done in the name of the town of Santa Rita.

§ 3. This act shall take effect immediately.

SANTA ROSA—CITY.

See tit. **Municipal Corporations.**

SCHOOL BOOKS—PROTECTION OF.

To provide for the care and security of the state series of school text-books, by the erection of a fire-proof warehouse to be used for the storage of the same, authorizing the appointment of a storekeeper to have the care and custody of said text-books, and appropriating money to pay the expenses of erecting said warehouse.

(Stats. 1887, 131, ch. CVIII.)

§ 1. The sum of ten thousand dollars is hereby appropriated out of the general fund for the construction of a fire-proof warehouse, of which the roof, outside doors, and window shutters, shall be made of iron, the walls of brick, and the floor of concrete, which warehouse shall be used for the storage of the state series of school text-books, and the paper, electrotypes, and other materials necessary for the publication of said state series of text-books. The said fire-proof warehouse shall be erected under the supervision of the superintendent of state printing, and shall be located in the same inclosure in which the state printing office is located, and shall be completed on or before July first, one thousand eight hundred and eighty-seven, anno Domini.

§ 2. This act shall take effect immediately.

SCHOOLS—ANNUITY FUND, TEACHERS'.

To create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties of the state.

(Stats. 1895, 170, ch. CLXVI; amended 1897, 225, ch. CLXIX; 1901, 676, ch. CCXXX; 1903, 271, ch. CCXXXI. Supplemental act, "Withdrawals," 1903, 131, ch. CXX.)

§ 1. The superintendent of public schools, or in consolidated cities and counties, the superintendent of common schools, the county treasurer, or in consolidated cities and counties, the city and county treasurer, and the chairman of the board of supervisors, or in consolidated cities and counties, the mayor, of each county, or consolidated city and county, and their successors in office, are hereby constituted a board of trustees of the public school teachers' annuity and retirement fund, to manage the same as hereafter directed; said board shall be known as the public school teachers' retirement fund commissioners, and its members shall serve without extra compensation, and shall be liable on their official bonds for the performance of the duties imposed by this act. It shall be the duty of the district attorney of every county, or the city and county attorney of every consolidated city and county, to attend to all suits, matters, and things in which the said board of commissioners may be legally interested, and to give his advice or opinion, in writing, whenever required by said board. [Amendment, Stats. 1897, 225.]

§ 2. The public school teachers' retirement fund commissioners shall organize as such board by choosing one of their number as chairman, and one as secretary. The county treasurer, or in consolidated cities and counties, the city and

county treasurer, shall be ex officio treasurer of said retirement fund. Said board shall hold quarterly meetings on the third Saturday in January, April, July, and October of each year, at the office of the county superintendent of public schools, or, in consolidated cities and counties, at the office of the superintendent of common schools. It shall biennially, at its meeting in January, select from its members a chairman and a secretary. A majority of its members shall constitute a quorum for the transaction of business. It shall report annually to the board of supervisors of the county, or consolidated city and county, the condition of said retirement fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund, and the amounts paid to each of them. [Amendment, Stats. 1897, 225.]

§ 3. Said board of public school teachers' retirement fund commissioners shall issue warrants, signed by its chairman and secretary, to the persons entitled thereto, for the amounts of money ordered paid to such persons from said fund by said board, stating therein for what purpose such payment is made, and the treasurer shall pay such warrants on presentation. Said board shall keep a record of all its proceedings, and said record shall be open to public inspection. It shall, at each quarterly meeting, make a list of all persons, if any, entitled to payment out of the funds provided by this act, and enter said list in a book to be kept by them for that purpose, to be known as the public school teachers' annuity and retirement fund book, which list shall be sworn to as correct by the chairman and the secretary of said board, and which shall be open to public inspection. [New section, Stats. 1897, 226.]

§ 4. In addition to the powers hereinbefore granted to said board, it shall have the power, (1) to provide for the payment of its necessary expenses, such as printing, stationery, and postage stamps; and where the number of those subject to the burdens of this act is greater than one hundred, it may employ a clerk at a salary not to exceed fifty (50) dollars per annum; and (2) to make such needful rules and regulations for the transaction of its business, from time to time, as may be necessary; the said expenses and the said clerk's salary shall be paid from the annuity fund in such counties or consolidated cities and counties, wherein there shall be "Annuity Funds," but, wherever there shall be no "Annuity Fund," the said expenses shall be paid from the "Distribution Fund," and the said salary from the reserve fund. [Amendment, Stats. 1903, 271.]

§ 5. Those subject to the burdens of this act in each county, or in each consolidated city and county, at a meeting called for the purpose by the superintendent of public schools of such county or of such city and county, on the first Saturday in May following the creation of the fund hereinafter specified, shall elect by ballot five of their number, who shall constitute a committee on retirement; the members of said committee shall, immediately after their election, classify themselves by lot so that one shall serve for one year, two serve for two years, and two shall serve for three years; and, annually, at a meeting to be called in the same manner on the first Saturday in May of each year after the first meeting, the successor or successors of the member or members of said committee whose term of office is about to expire, shall be elected for a term of three years; provided, however, that said committee shall always consist of at least

one class teacher from some primary school, one from some grammar school, and one from some high school in the county, or consolidated city and county, whenever such election is possible. In the event of a vacancy, the superintendent of schools shall appoint until the next annual election.

Within fifteen days after the taking effect of this amendatory act, the contributors to said fund in any county, or consolidated city and county, in this state, at a meeting called for that purpose, by the superintendent of public schools of such county, or consolidated city and county, (or if he neglects or refuses to call such meeting, then such meeting may be called by ten of such contributors,) may select and designate by resolution adopted by a majority vote of those present, which of the two alternatives presented in section eight class two, in section eight class six, in section eight class seven, and in section eleven, respectively, shall be followed in such county or consolidated city and county.

In the event that no such meeting is called or held for the purpose of making such selection and designation, the said contributors in such county, or consolidated city and county, wherein no such meeting shall be held, will be deemed to have selected the first (marked subdivision "A") of each of the above-mentioned alternatives.

In counties and consolidated cities and counties where a public school teachers' annuity and retirement fund shall be hereafter created the said selection and designation shall be made at the said meeting to be held on the first Saturday in May following the creation of said fund. After any selection and designation shall have been made, pursuant to this section, no change shall ever be made thereafter in that connection. A certified copy of all resolutions adopted pursuant to this section shall be furnished by said meeting of said contributors to the board of public school teachers' retirement fund commissioners of such county or consolidated city and county. [Amendment, Stats. 1903, 271.]

§ 6. The board of education of any incorporated city or town, and the board of trustees of any school districts outside of said city or town, shall refer all applications for retirement to said committee on retirement, or may, of its own motion, submit the name of any person or persons, whom it desires to have retired, to the said committee on retirement, and it shall thereupon be the duty of said committee to investigate the case and report to said board of education or board of trustees, whether or not said teacher should be retired, and the annuity to which said teacher is entitled, if entitled to any. At least three members of the said committee must concur in the report, if it be in favor of granting said annuity. This report of said committee shall be final. Said board of education, or board of trustees, shall thereupon certify and send this report to the public school teachers' retirement fund commissioners, who shall be bound by its decision. [New section, Stats. 1897, 227.]

§ 7. In addition to the powers heretofore granted to said committee on retirement, it shall have the power (1) to subpoena and compel witnesses to attend and testify before it on all matters relating to the operation of this act, and any member of said committee may administer an oath or affirmation to such witness in the form prescribed in courts of justice; (2) to make such rules and regulations for the transaction of its business as may from time to time be necessary. [New section, Stats. 1897, 227.]

§ 8. Any public school teacher or any occupant of one of the offices mentioned in subdivision four of section twelve of this act, who has been a contributor under the provisions of this act, and who has ceased teaching, for a time, or has ceased to occupy such office, may again become a contributor upon returning to teaching in the public schools of this state, or upon becoming an occupant of any one of the offices mentioned in said subdivision four of section twelve, and shall thereupon be credited with his said previous service and contribution; provided, that no person shall be a contributor to a public school teachers' annuity and retirement fund under this act who does not hold a valid certificate or diploma to teach in the public schools of this state.

The annuitants under this act are classed as follows:

Class One. Any teacher who shall have served in the public schools of this state for thirty years as a teacher, and who shall have been subject to the burdens imposed by this act for thirty years, shall be entitled to retire under the provisions of this act.

Any teacher who has served in the public schools of this state, and who has served in one or more of the offices mentioned in said subdivision four of section twelve, and the aggregate period of whose service in the said public schools and in said office or offices shall be thirty years, and who shall have been subject to the burdens imposed by this act during said thirty years, shall be entitled to retire under the provisions of this act; provided, however, such teacher shall have held a valid certificate or diploma to teach in the public schools of this state during all of said period. Annuitants of class one shall be entitled to receive from the said public school teachers' annuity and retirement fund the sum of thirty (30) dollars per month in counties, and fifty (50) dollars per month in consolidated cities and counties, payable quarterly.

Class Two. Any teacher who shall have served in the public schools of this state for thirty years, and who was unable to contribute to said public school teachers' annuity and retirement fund for thirty years, by reason of the non-establishment or non-existence of said fund, and any teacher who shall have served in the public schools of this state, and who shall have served in one or more of the offices mentioned in said subdivision four of section twelve, and the aggregate period of whose service in the said public schools, and in said office or offices, is thirty years, and who has held a valid certificate or diploma to teach in the public schools of this state during all of said period, and who was unable to contribute to said fund for thirty years by reason of the non-establishment or non-existence of said fund, shall be retired upon application to the said board under either subdivision A or subdivision B, hereof, as the contributors to said fund in such county, or consolidated city and county, shall have selected to follow, as provided in section five of this act.

A. Such applicant upon retirement shall receive from the public school teachers' annuity and retirement fund the sum of thirty (30) dollars per month in counties, and fifty (50) dollars per month in consolidated cities and counties, payable quarterly; provided, that such applicant for retirement is, at the date of the taking effect of this amendatory act, a contributor to the public school teachers' annuity and retirement fund in the county or consolidated city and county, where he is teaching or holding such office, or becomes a contributor thereto within ninety (90) days after he becomes such teacher or such office-

holder, and shall have paid into the said fund, at the time of such retirement, a sum aggregating what he would have paid into said fund in thirty (30) years, had he been a contributor thereto for that period; provided, further, that annuities under this class shall not begin until five (5) years after the retired teacher became a contributor.

B. Such applicant upon retirement shall receive from the public school teachers' annuity and retirement fund the sum of five (5) dollars per month, payable quarterly, for every two and one half (2½) years (or fraction thereof equal to or greater than one half of two and one half years) such teacher or office-holder shall have contributed to said fund, until the maximum annuity of thirty (30) dollars per month in counties and fifty (50) dollars per month in consolidated cities and counties shall have been reached; provided, that such applicant for retirement is, at the date of the taking effect of this amendatory act, a contributor to the public school teachers' annuity and retirement fund in the county, or consolidated city and county where he is teaching or holding such office, or becomes a contributor within ninety (90) days after the taking effect of this amendatory act, or becomes a contributor thereto within ninety (90) days after he becomes such teacher or such office-holder.

No person shall be retired under this subdivision unless he shall have paid into said fund, at the time of such retirement, a sum aggregating what he would have paid into said fund in thirty (30) years had he been a contributor thereto for that period.

No teacher or office-holder shall be retired until he has been a contributor to the fund for five (5) years.

Class Three. Any public school teacher who shall have served for thirty years, twenty-five of which shall have been in the public schools of this state, or partly in the public schools of this state and partly in one or more of the offices mentioned in said subdivision four of section twelve, and who shall have been subject to the burdens imposed by this act for twenty-five years, shall receive upon retirement after thirty years of such service, the sum of thirty (30) dollars per month in counties, and fifty (50) dollars per month in consolidated cities and counties, payable quarterly; provided, he shall have paid into the said fund, at the time of such retirement, a sum aggregating what he would have paid into said fund in thirty (30) years, had he been a contributor thereto for that period.

Class Four. Any public school teacher or any officer mentioned in said subdivision four of section twelve, subject to the burdens of this act, who shall remove to another county in this state, may continue to be a contributor to the public school teachers' annuity and retirement fund in the county, or in the consolidated city and county, from which he removed, so long as he continues to be a public school teacher or the occupant of one of said offices; and it is hereby made the duty of the county treasurer of the county, or consolidated city and county, wherein such teacher or officer agreed to become subject to the burdens of this act, to receive such contributions of such non-residents, and to place such contributions to the credit of the public school teachers' annuity and retirement fund.

Class Five. Any teacher who ceases to serve in the public schools of any county, or of any consolidated city and county, or who ceases to serve in one of the offices mentioned in said subdivision four of section twelve, in the county or

consolidated city and county, where he has been subject to the burdens imposed by this act, and who shall have served in the public schools of this state for thirty (30) years, or who shall have served partly in the public schools of this state and partly in one or more of the offices mentioned in said subdivision four of section twelve, for an aggregate period of thirty (30) years, shall be entitled to retire, and to receive from the public school teachers' annuity and retirement fund of the county, or consolidated city and county, to which he has contributed for at least five (5) years, an annuity equal to such proportion of the maximum annuity granted under this act as the time he has been subject to the burdens imposed by this act in such county, or consolidated city and county, bears to the period of thirty years.

Class Six. Contributors to said public school teachers' annuity and retirement fund retiring under this class, shall be retired either under subdivision A, or subdivision B hereof, as the contributors to said fund in such county, or consolidated city and county, shall have selected to follow, as provided in section five of this act.

A. If any teacher, or any office-holder mentioned in said subdivision four of section twelve, after the expiration of fifteen (15) years, and before the expiration of thirty (30) years, of service in the public schools of this state, or of service partly in the said public schools and partly in one or more of the offices mentioned in said subdivision four of section twelve, shall be compelled, by reason of incapacity, to retire from public school service, or from one of the offices mentioned in said subdivision four of section twelve, while holding a valid certificate or diploma to teach in the public schools of this state, such retiring teacher or office-holder, if a contributor to the said fund at the time of retirement, shall be entitled to receive, from the public school teachers' annuity and retirement fund, as many thirtieths (30ths) of the full annuity as he has had years of said service, by paying into the public school teachers' annuity and retirement fund the contributions to said fund corresponding to those years of service rendered at a time when, or in a place where, it was impossible to make such contributions by reason of the non-existence of a public school teachers' annuity and retirement fund; provided, that he shall have contributed to the said fund for five years before he becomes an annuitant.

B. If any teacher or any office-holder mentioned in said subdivision four of section twelve, after the expiration of five years, and before the expiration of thirty years of service in the public schools of this state, or of service partly in the said public schools and partly in one or more of the offices mentioned in said subdivision four of section twelve, shall be compelled by reason of incapacity, to retire from public school service, or from one of the offices mentioned in said subdivision four of section twelve, while holding a valid certificate or diploma to teach in the public schools of this state, such retiring teacher or office-holder, if a contributor to the said fund at the time of retirement, shall be entitled to receive from the public school teachers' annuity and retirement fund a sum in dollars equal to such proportion of the maximum annuity granted under this act as the time he shall have been subject to the burdens of this act bears to the period of thirty years; provided, however, that those who have served in the public schools of this state, or partly in the said public schools and partly in one or more of the offices mentioned in said subdivision four of section twelve,

at a time when, or in place where, it was impossible to make contributions to said fund, by reason of the non-existence of said fund, may receive in addition to the proportion of the maximum annuity last hereinabove specified, such an additional proportion of the full annuity as the number of years of said service, while not burdened with the provisions of this act, bears to thirty years; provided, further, that they shall have paid into the said fund, at the time of their retirement, an amount equal to what they would have paid into said fund had they been subject to the burdens imposed by this act for the full time of said service, not to exceed thirty years; and provided, further, that no person retired under this subdivision B shall ever receive a greater annuity than he would have received had he retired on account of years of service; and provided, further, that he shall have contributed to the said fund for five years before he becomes an annuitant.

Class Seven. Contributors to said public school teachers' annuity and retirement fund, retiring under this class, shall be retired under either subdivision A, or under subdivision B, hereof, as the said contributors to said fund in such county, or consolidated city and county, shall have selected to follow, as provided in section five of this act.

A. Any public school teacher who shall have been subject to the burdens imposed by this act, for a period of at least five years, and who shall have served in the public schools of this state for a period of fifteen (15) years, or partly in the said public schools and partly in one or more of the offices mentioned in said subdivision four of section twelve, for a period of fifteen years, and who has held a valid certificate or diploma to teach in the schools of this state during all said period, and who shall have been declared incapacitated, by the committee on retirement, to perform the duties of a public school teacher, or the duties of the office which he may be occupying, if he should be occupying one of the offices mentioned in said subdivision four of section twelve, shall be entitled to retire and to receive an annuity from the public school teachers' annuity and retirement fund, equal to such proportion of the maximum annuity granted under this act as the time he has been subject to the burdens imposed by this act bears to the period of thirty years.

B. Any public school teacher who shall have been subject to the burdens imposed by this act for a period of five years (5), and who shall have served in the public schools of this state for a period of five (5) years, or partly in the said public schools and partly in one or more of the offices mentioned in said subdivision four of section twelve, for a period of five years, and who has held a valid certificate to teach in the schools of this state during said period, and who shall have been declared incapacitated by the committee on retirement, to perform the duties of a public school teacher, or the duties of the office which he may be occupying, if he should be occupying one of the offices mentioned in said subdivision four of section twelve, shall be entitled to retire, if a contributor to the fund at the time of retirement, and to receive an annuity, from the public school teachers' annuity and retirement fund a sum in dollars equal to such proportion of the maximum annuity granted under this act, as the time he shall have been subject to the burdens imposed by this act bears to the period of thirty years.

Class Eight. Teachers of public evening schools receiving a salary of fifty

(50) dollars or less per month, shall be subject to one half of the burdens, and shall be entitled to one half of the benefits, of this act; provided, that any public school teacher who is employed both in a day and an evening school shall be considered for the purposes of this act to be employed in a day school only; provided, further, that an evening public school teacher, who at any time before retirement under the provisions of this act shall become a day public school teacher, or an occupant of one of the offices mentioned in said subdivision four of section twelve, shall upon retirement as a day public school teacher, or as one of said officers, be credited with half time for his said evening school service, under the class in which he may be retired.

High school and other public school teachers in counties, or in consolidated cities and counties, in which the act of which this act is amendatory has been in force, who were unable by reason of any imperfection in the terms of said act, to become contributors, shall be allowed, upon admission under the terms of this act, and upon the payment of the amounts they would have paid had they been contributors, to date the time of their admission from the time of the organization of the public school teachers' annuity and retirement fund in their county or consolidated city and county. City treasurers are hereby directed to pay into the public school teachers' annuity and retirement fund of their respective counties the contributions of teachers and officers, whose salaries are paid by, or through, city treasurers, in the same manner as provided in the act of which this act is amendatory, to be paid by the treasurer of a county, or consolidated city and county.

Compliance with these provisions shall render any public high school or other public school teacher eligible to the benefits provided in any one of the eight classes of annuitants in this act created to which such teacher may be qualified.

Any and all annuities shall be suspended if the recipient returns to the profession of teaching or becomes the occupant of one of the said offices mentioned in subdivision four of section twelve. Any annuity less than two thirds of the maximum annuity shall cease at the expiration of one year from the time at which the committee on retirement, constituted in section five of this act, shall decide that the recipient has been restored to the capacity of performing the duties of a public school teacher.

All teachers now employed in the public schools of this state who filed the notice specified in the act of which this act is amendatory, within ninety days after the passage of this amendatory act in counties or in consolidated cities and counties where the provisions of any act or acts to which this act is amendatory are now applicable and all other public school teachers in other counties or consolidated city and county who become contributors within ninety days after the establishment of a public school teachers' annuity and retirement fund therein and who shall have paid at the time of retirement an amount equal to what they would have paid had they been subject to the burdens imposed by the provisions of this act for thirty (30) years, shall not suffer any reduction of annuities; provided, however, that the provisions of this paragraph shall not apply to counties or consolidated cities and counties in which the contributors to said fund shall select to be governed by the provisions of subdivision B of classes two, six and seven respectively of section eight, and sub-

division B of section eleven, as provided in section five. [Amendment, Stats. 1903, 272.]

§ 9. If at the end of any quarter year there shall not be a sufficient amount of money in the "Annuity Fund," or in the "Distribution Fund," as the case may be, to pay all warrants and demands of annuitants in full, then the money in that fund shall be divided pro rata among them, and the sum received by each annuitant shall be in full discharge of all claims against said fund to that date. [Amendment, Stats. 1903, 278.]

§ 10. The public school teachers' annuity and retirement fund herein provided for, shall consist of the following, with the income and interest thereof: (I) Twelve (12) dollars per school year, of the salaries paid to all those subject to the burdens imposed by this act, in each county or consolidated city and county, shall be deducted from the warrants for salary, and paid by the treasurer of the county, or consolidated city and county, to the public school teachers' retirement fund commissioners of said county, or consolidated city and county; and it shall be the duty of the secretary of the board of education in every incorporated city or town, or consolidated city and county, and the clerk of the board of trustees of every public school district outside of such city or town, or consolidated city and county, to note on each warrant the amount to be so deducted therefrom by the treasurer, and if classified, the class under this act to which the teacher belongs. (II) All moneys received from gifts, bequests and devises, or from any other source. (III) All moneys, pay, compensation, or salary forfeited, deducted or withheld from the warrant or demand for salary of any teacher or teachers for and on account of absence from duty from any cause, which the board of education of every incorporated city or town, or the board of trustees of every school district outside of such city or town, may appropriate and set apart for the aforesaid fund; and said board of education or board of trustees, are hereby empowered to appropriate such moneys, or any part thereof, for such fund; provided, that in consolidated cities and counties, after the establishment of an annuity fund therein, it is hereby made the duty of the boards of education to appropriate, monthly, at least one half of such moneys for such fund. [Amendment, Stats. 1903, 278.]

§ 11. The said public school teachers' annuity and retirement fund shall be divided either as designated in subdivision A hereof, or as designated in subdivision B hereof, as the said contributors to said fund in such county, or consolidated city and county, shall have selected to follow pursuant to the provisions of section five (5) hereof.

A. The said public school teachers' annuity and retirement fund in each county or consolidated city and county, shall be divided into two distinct funds, or accounts, (1) the permanent fund, and (2) the annuity fund.

(1) The permanent fund.

(a) The permanent fund shall consist of: (I) Twenty-five per centum of all contributions from those affected by this act. (II) Twenty-five per centum of all gifts, bequests, or devises, unless otherwise ordered by the donor or the testator. (III) Twenty-five per centum of all moneys deducted from the salaries of teachers because of absence from duty.

(b) When the permanent fund shall amount to the sum of fifty thousand (\$50,000) dollars, then all moneys thereafter received shall go into the an-

nunity fund, except such gifts, devises, or bequests as may be specially directed by its donor or testator to be placed in the permanent fund.

(c) It shall be the duty of the public school teachers' retirement fund commissioners to invest the aforesaid permanent fund in interest-bearing bonds issued by the federal, state, county, city and county, or municipal governments, and to apply the interest thereon as herein directed.

(2) The annuity fund.

(a) The annuity fund shall consist of: (I) The income derived from the permanent fund. (II) All other moneys belonging to the public school teachers' annuity and retirement fund, not hereinbefore directed to be placed in the permanent fund. (III) All moneys in the fund provided for in the act to which this is amendatory.

(b) The annuity fund shall be the only one from which annuitants shall be paid.

(c) If at the end of any fiscal year there remain any surplus in the annuity fund, said surplus shall be deposited by the public school teachers' retirement fund commissioners in any savings bank, or savings banks, designated by them.

B. The said public school teachers' annuity and retirement fund, in each county, or consolidated city and county, shall be divided into two distinct funds or accounts, (1) the reserve fund and (2) the distribution fund.

(1) The reserve fund.

The reserve fund shall consist of:

(a) All moneys collected from the unclassified contributors for the first five years after the creation of said fund.

(b) Sixty (60) per centum of all moneys collected from the unclassified contributors for the second five years after the creation of the fund.

(c) Fifty (50) per centum of all moneys collected from unclassified contributors for the third five years after the creation of the fund.

(d) Thirty (30) per centum of all moneys collected from the unclassified contributors for the fourth five years after the creation of the fund.

(e) One hundred per centum of all collections from the classified contributors during the first period of their classification, as hereinafter classified.

(f) Ninety per centum of all collections from the classified contributors during the second period of their classification, as hereinafter classified.

(g) Eighty per centum of all collections from the classified contributors during the third period of their classification, as hereinafter classified.

(h) Seventy per centum of all collections from the classified contributors during the fourth period of their classification, as hereinafter classified.

(i) All collections from sources other than said collections from contributors; all donations, and all interest accrued on such reserve fund for a period of twenty years from the creation of said fund.

It shall be the duty of the public school teachers' retirement fund commissioners to place the reserve fund at interest, monthly, in a savings bank selected by the said commissioners. All original contributors to a public school teachers' annuity and retirement fund in any county or consolidated city and county, and all those who became contributors thereto within the first five years after the creation of said fund shall be known as unclassified contributors.

All who become contributors during the first decade after the fund shall have been in existence for five years shall be known as class A, and those who become contributors to said fund during each decade thereafter shall be known as classes B, C, D, respectively; each of said classes shall exist for four periods, the first three being for ten years each and the fourth for five years.

When the term for which any class has been formed shall have elapsed, all contributors to such classes who continue to contribute, shall be considered as unclassified.

(2) The distribution fund.

The distribution fund shall not be formed in any county or consolidated city and county, until the said public school teachers' annuity and retirement fund shall have been in existence for five years. It shall then consist of

(a) The income not hereinbefore set aside and declared a part of the reserve fund.

(b) After the said fund shall have been in existence for twenty years, in addition to the income not heretofore set aside for the reserve fund, there shall be transferred quarterly, during the next five years, from the reserve fund to the distribution fund, sixty (60) dollars; provided, that the earnings of the reserve fund for that period shall be equal to, or shall exceed, two hundred and forty (240) dollars per annum. If the earnings of the reserve fund shall not equal two hundred and forty (240) dollars per annum, the amount transferred quarterly from the reserve fund to the distribution fund shall be equal to the quarterly interest of the reserve fund.

(c) After the said fund shall have been in existence for twenty-five (25) years, the distribution fund shall consist of the income not heretofore set aside for the reserve fund, and one hundred and sixty (160) dollars to be transferred quarterly, during the next five years from the reserve fund to the distribution fund; provided, however, that this amount does not exceed the quarterly earnings of the reserve fund for that period. Should the one hundred and sixty (160) dollars exceed the said quarterly earnings, then an amount equal to the quarterly earnings of the reserve fund shall be so transferred.

(d) After the said fund shall have been in existence for thirty years the distribution fund shall consist of the income not heretofore set aside for the reserve fund and all of the interest of the reserve fund during the next five years. And should the aforesaid fail to give sufficient funds to pay half of the annuities due, then there shall be transferred quarterly from the reserve fund, over and above the earnings of the reserve fund, thirty (30) dollars per quarter.

(e) After the said fund shall have been in existence for thirty-five years, the distribution fund shall consist of the income not heretofore set aside for the reserve fund. Also the interest on the reserve fund, distributed quarterly during the next five years, and should this not be sufficient to pay half of the annuity due, then there shall be transferred from the reserve fund, in addition to the interest, sixty (60) dollars quarterly.

(f) After the said fund shall have been in existence for forty years, the distribution fund shall consist of the income not heretofore set aside for the reserve fund, the interest on the reserve fund distributed quarterly, and a sum taken from the reserve fund in addition thereto, equal to twelve times

the increase in contributors to the said public school teachers' annuity and retirement fund for the preceding year; that is, if the said contributors increase by twenty during the year nineteen hundred and thirty-four, then during the year nineteen hundred and thirty-five there shall be taken from the reserve fund, in addition to the interest, two hundred and forty (240) dollars per annum.

All disbursements shall be from the distribution fund, except as otherwise provided in section four. [Amendment, Stats. 1903, 279.]

§ 12. This act shall be binding upon such public school teachers, and such officers mentioned in said subdivision four of section twelve as shall sign and deliver to the public school teachers' retirement fund commissioners, and to the secretary of the board of education of the incorporated city or town, or consolidated city and county, or to the clerk of the board of trustees of the school district in which they are employed, a notice in substantially the following form:

_____ 19____.

To the Public School Teachers' Retirement Fund Commissioners, of _____ county (or city and county):

You are hereby notified that I agree to be bound by, and desire to avail myself of the provisions of the act of the legislature of the state of California, approved March twenty-ninth, eighteen hundred and ninety-seven, entitled "An act to amend an act approved March twenty-sixth, eighteen hundred and ninety-five, entitled 'An act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties in the state,' " as amended March twenty-third, nineteen hundred and one, and _____, nineteen hundred and three.

Signed _____.

provided, that at least thirty public school teachers within the county, or consolidated city and county, shall file the notice hereinbefore set forth; provided, further, that in all counties, or in consolidated cities and counties, where there is a less number of teachers than thirty, this act shall be binding on all those who signify their intention of being bound thereby.

(2) In consolidated cities and counties it shall be binding upon all teachers elected or appointed to teach in the public schools of such consolidated cities and counties after the passage of this act.

(3) Annuities heretofore granted under the provisions of the act of which this act is amendatory shall be continued for the same amount as heretofore paid, subject, however, to the conditions imposed by sections nine (9) and eleven (11) of this act.

(4) Any county, consolidated city and county, or city superintendent of schools of this state, and any deputy superintendent of schools for any county, consolidated city and county, or city of this state, and any person engaged in any other educational work, required by law to have the qualification of a teacher in the public schools of this state, may avail himself of the provisions of this act; and wherever the word "teacher" is used in this act it shall be deemed to include such officer or officers. [Amendment, Stats. 1903, 282.]

§ 13. Every public officer who shall issue, or receive in his official capacity, any warrant, or who shall receive or pay out any money, in any manner con-

nected with, pursuant to, or dependent upon, the provisions of this act, shall keep a full, accurate and public record of all his transactions appertaining to the same. [Amendment, Stats. 1903, 283.]

§ 14. This act shall take effect and be in force from and after its passage. [Amendment, Stats. 1897, 231.]

It may be noted that in the amendments of 1897, §§ 3, 6, 7, and 8 of the former act, with some changes, have been transposed and have become respectively §§ 8, 10, 12 and

13 of the present law. And see the next following statute supplemental to the foregoing, and authorizing withdrawal of contributors.

SCHOOLS—ANNUITY FUND, WITHDRAWALS.

Authorizing any teacher or public officer who is now a contributor to a public school teachers' annuity and retirement fund in any county, or consolidated city and county, of this state, where there are no annuitants drawing annuities from the said fund of such county, or consolidated city and county, to cease to be a contributor to such fund within sixty days from the taking effect of this act, and to have returned to him the amount contributed by him thereto, or such part thereof as may be available for that purpose.

(Stats. 1903, 131, ch. CXX.)

§ 1. Within sixty days after the taking effect of this act, any teacher or public officer who is now a contributor to a public school teachers' annuity and retirement fund in any county or consolidated city and county in this state, created under the provisions of an act approved March twenty-nine, eighteen hundred and ninety-seven, entitled "An act to amend an act approved March twenty-six, eighteen hundred and ninety-five, entitled 'An act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties in the state,'" as amended, may withdraw from such organization by complying with the provisions of this act; provided, however, that the provisions of this act shall not apply to any county or consolidated city and county, where there are, at the time of the taking effect of this act, any annuitants drawing annuities from the said fund of such county, or consolidated city and county.

§ 2. And such teacher, or public officer, desiring to avail himself of the provisions of this act, shall within sixty (60) days after the taking effect of this act, sign and file with the board of public school teachers' retirement fund commissioners of the county, or consolidated city and county, where such teacher or public officer is then a contributor, a notice in writing to the effect that such teacher or public officer, thereby withdraws from the said organization, and shall at the same time sign and file with the clerk, secretary, officer, or board, whose duty it is to issue the salary warrants of such teacher or public officer, a notice similar in substance to the said notice filed with the said board of commissioners.

§ 3. The said board of commissioners, shall, at its next regular meeting after the expiration of said sixty (60) days, pass a resolution directing that all money contributed to said public school teachers' annuity and retirement fund by such teachers or public officers so withdrawing, shall be immediately returned to such teachers or public officers. If the amount in the fund of said organization, after the payment of all legal demands, shall be insufficient to

pay each withdrawal the full amount contributed by him, then the said board shall compute the pro rata amount that shall be paid to each, the same to be in proportion to their respective contributions, and shall specify in said resolution the amount to be returned to each.

§ 4. The president and secretary of said board shall thereupon issue warrants to the persons entitled thereto, in such amounts as shall have been so computed and specified by said board, and the treasurer of said fund shall pay the same to the person named in each respective warrant, or to his heirs or assigns.

§ 5. From and after filing the notices, specified in section two hereof, each teacher or public officer giving such notices shall be relieved from all burdens and liabilities imposed by the said act designated in section one hereof.

§ 6. The clerk, secretary, officer, or board, whose duty it is to issue the salary warrants of such teachers or public officers, shall, from and after the filing of the said notice with him or it, cease to note on the salary warrant of such teacher or public officer any amount to be deducted therefrom by the treasurer on account of said fund.

§ 7. This act shall take effect immediately.

SCHOOLS—BONDS.

To provide for the registration of bonds issued by common school, high school, or union high school districts.

(Stats. 1905, 123, ch. CXX.)

§ 1. Whenever the owner of any coupon bond, or of any bond payable to bearer, already issued or hereafter issued by any common school, high school, or union high school districts now or hereafter existing in this state, shall present any such bond to the treasurer or other officer of the county in which said district is located, who by law performs the duties of treasurer, with a request for the conversion of such bond into a registered bond, such treasurer, or such other officer, shall cut off and cancel the coupons of any such coupon bond so presented, and shall stamp, print or write upon such coupon bond, or such other bond payable to bearer, so presented, either upon the back or upon the face thereof, as may be convenient, a statement to the effect that the said bond is registered in the name of the owner, and that thereafter the interest and principal of said bond are payable to the registered owner. Thereafter, and from time to time any such bond may be transferred by such registered owner in person, or by attorney duly authorized on presentation of such bond to such treasurer, or such other officer, and the bond be again registered as before, a similar statement being stamped, printed, or written thereon. Such statement stamped, printed or written upon such bond may be in substantially the following form:

(Date, giving month, year, and day.)

This bond is registered pursuant to the statute in such cases made and provided in the name of
(here insert name of owner) and the interest and principal thereof are hereafter payable to such owner.

.....

Treasurer (or such other officer).

After any bond shall have been registered as aforesaid, the principal and interest of such bond shall be payable to the registered owner. Such treasurer or such other officer, shall keep in his office a book or books which shall at all times show what bonds are registered and in whose names respectively.

§ 2. Whenever under any statute or law of this state any bonds are issued, whether the proceedings for the issuance of such bonds have been had in whole or in part prior to the enactment of this statute, or whether the same have been had in whole or in part after the enactment of this statute, such bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as has been or hereafter may be provided in the proceedings for the issuance of such bonds, and notwithstanding any language or provision to the contrary contained in any such statute authorizing the issuance of the bonds, or in any other law of the state. The provisions of section one of this act shall apply to coupon bonds, so issued, as well as to other coupon bonds, or other bonds payable to bearer.

SCHOOL BOOKS—COMPILING.

To provide for compiling, illustrating, electrotyping, printing, binding, copy-righting, and distributing a state series of school text-books, and appropriating money therefor.

(Stats. 1885, 6, ch. VIII; amended 1887, 145, ch. CXXVII; 1891, 453, ch. CCXXXVII.)

§ 1. The state board of education shall compile, or cause to be compiled, for use in the common schools of the state, a series of school text-books of the following description, viz.: Three (3) readers, one (1) speller, one (1) arithmetic, one (1) grammar, one (1) history of the United States, and one (1) geography. The matter contained in the readers shall consist of lessons commencing with the simplest expressions of the language, and, by a regular gradation, advancing to and including the highest styles of composition, both in prose and poetry.

§ 2. The state board of education shall employ well-qualified persons to compile the books mentioned in section one of this act, and shall fix the remuneration for the services thus rendered; provided, that if competent authors shall compile any one or more works of the first order of excellence, and shall offer the same as a free gift to the people of the state, together with the copyright of the same, and the exclusive right to manufacture and sell such works within the state of California, it shall be the duty of the state board of education to accept such gift, and to expend no money for the purpose of compiling works relating to the subjects treated of in the books thus donated. The state board of education shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the said series of text-books.

§ 3. The printing of all the text-books provided for in section one of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing at the state printing office; provided, that the purchase of paper for the school books, and the cardboards, cloth and leather for covers, shall be procured by advertising

for proposals to furnish the same, in the manner now provided for by section five hundred and thirty-two of the Political Code, relating to paper supplies for the state printing office; and provided further, that when the state has its bindery in operation, all folding, stitching, binding, and ruling of the state shall be done in the state bindery; but the accounts of the school-book binding shall be kept separate from those of all other binding.

§ 4. The state board of education shall secure copyrights to all the books that shall be compiled under the provisions of this act, and shall protect said copyrights from all infringement.

§ 5. Whenever any one or more of the state series of school text-books shall have been compiled and adopted, the state board of education shall issue an order requiring uniform use of said book or books in the common schools of the state; but said order for the uniform use of said book or books shall not take effect till the expiration of at least one year from the time of the completion of the electrotpe plates of said book or books, and thereafter such book or books shall be used in all the common schools of this state; and no school board or other school authority in this state shall have the power to authorize the use of, nor shall any common school in this state use any books as text-books for pupils other than those directed to be used by the order aforesaid of such state board, except books on such subjects as are not provided for by text-books published by the state. Nothing in this act shall be construed to prevent any county or school district from adopting any one or more of the state series of school text-books whenever said book or books shall have been published. The superintendent of public instruction must withhold from any city, city and county, county, or from any school district in this state using school books in violation of the provisions of this act and section all state school moneys to which it may be entitled, until it comply with the requirements of this section; and any moneys so withheld must be apportioned by the superintendent at the next annual apportionment in the same manner as other school moneys in the treasury. [Amendment, Stats. 1891, 453.]

§ 6. All orders for text-books shall be made on the superintendent of public instruction, and shall be accompanied by cash, in payment for the same, at the price fixed by the state board of education as the cost price at Sacramento; provided, that if the books are to be shipped by mail, the cost of postage shall also accompany the order. The following persons shall be entitled to order books:

1. County superintendents of schools, for the use of teachers, parents, and pupils in their counties only.
2. Principals of state normal schools, for their own and for the use of the pupils in their respective schools only.
3. The secretary or clerk of any school district in the state, whether incorporated or operating under the general law of the state, for the use of the pupils in such district only; but no books ordered by the county superintendents, or clerks of district boards of trustees, or principals of state normal schools, shall be sold at a price exceeding the cost price at Sacramento, with the actual cost of freight and cartage added.
4. Any retail dealer who shall first transmit to the state superintendent of

public instruction an affidavit, duly subscribed by him, in substance as follows, to wit:

“In consideration of receiving for sale, upon the inclosed or upon any future order, the series of school text-books, or any part thereof, published by the state of California, I hereby agree that I will not sell the same to any person or persons for the purpose of being sold again, or to any person or persons beyond the limits of the state of California; and that I will not sell said series of text-books or any part or portion thereof, at a price exceeding the price to the pupil fixed by the state board of education.”

Said affidavit shall be indorsed by the county superintendent in the following words, viz.:

“I hereby certify that (A B) is a regular retail dealer in school books in
— county. C D, county superintendent.”

It shall be the duty of the state superintendent of public instruction to furnish, at once to each county superintendent, for the use of any dealer in his county who may apply for permission to sell the books of the state series, printed copies of the above affidavit, together with the list of prices of such books fixed as the cost price at Sacramento, and the price to the pupil; and any dealer who shall fail to comply with the conditions of such affidavit shall forfeit his right to any further purchase of said books from the state. And it shall be the duty of the superintendent of public instruction to report to the state controller, on or before the fifth day of every month, the number of books sold by him during the preceding month, and pay the moneys received for the same into the state treasury. It shall also be the duty of the superintendent of state printing, on or before the fifth day of every month, to report to the state controller the number and value of the books shipped by him on the order of the state superintendent of public instruction, and the number and value of the finished books on hand. [Amendment, Stats. 1887, 145.]

§ 7. It shall be the duty of the boards of supervisors of the counties or cities and counties in this state to provide a revolving fund, for the purpose of enabling the county school superintendents to purchase the state text-books; all moneys to be taken therefrom to be replaced by the moneys received from the sale of said books to the scholars of the public schools of his county, either by himself or by the teachers of the public schools, or the clerks of boards of district trustees. [Amendment, Stats. 1887, 146.]

§ 8. The sum of twenty thousand dollars is hereby appropriated, out of any money in the state treasury not otherwise appropriated, for the purpose of compiling, or causing to be compiled, the series of text-books for the common schools, as set forth in section one of this act. The appropriation provided for in this section shall be subject to the order of the state board of education; provided, that all demands against said appropriation shall first be approved by said state board of education and presented to the state board of examiners in itemized form for their approval, and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

§ 9. The sum of one hundred and fifty thousand dollars is hereby appro-

priated out of any money in the state treasury not otherwise appropriated, to purchase the necessary machinery, presses, types, bindery, electrotyping apparatus, and such other material as may be required in the manufacture of the text-books provided for in section one of this act, as well as to pay the salaries or wages of the compositors, binders, and other persons to be employed in such manufacture; provided, that the state board of education shall first approve the style of printing, engravings, and illustrations, kind of paper, size, and binding of volumes; said sum to be drawn by the superintendent of state printing in the same manner as provided in subdivision four of section five hundred and twenty-six of the Political Code.

§ 10. All school books compiled by the state shall be furnished to the public school children of the state at the cost of printing, publishing, and distributing the same; said cost to be ascertained and fixed by the state board of education, on or before the fifteenth day of June of each school year; and it is further enacted, that the cost of distribution shall be taken to be the cost of postage required for mailing each book. [Amendment, Stats. 1887, 146.]

§ 11. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 12. This act shall take effect immediately.

The fourth section of the amendatory Act of 1887, 146, was not given a number designating its position in the Act of 1885. It relates to assistance for the superintendent, and is as follows:

§ 4. The superintendent of public instruction is hereby authorized to employ assistance necessary to the carrying out of the provisions of this act. And the controller

is hereby directed and authorized to draw his warrants for a sum not exceeding two thousand dollars annually, on the general fund of the state, for the payment of such assistance.

Upon the earlier statutes adopting text-books and their compulsory use, see *People ex rel. Beckwith vs. Board of Education*, 55 Cal. 331, 333.

SCHOOL BOOKS—COMPILING.

To provide for compiling, illustrating, electrotyping, printing, binding, copy-righting and distributing certain books of a state series of school text-books, and appropriating money therefor.

(Stats. 1887, 139, ch. CXXII.)

§ 1. In addition to the books directed to be compiled for use in the common schools of the state by section one of the act entitled "An act to provide for compiling, illustrating, electrotyping, printing, binding, copy-righting, and distributing a state series of school text-books, and appropriating money therefor," approved February twenty-sixth, eighteen hundred and eighty-five, the state board of education shall compile, or cause to be compiled, the following described text-books, viz: One (1) elementary arithmetic; one (1) elementary grammar or language lessons; one (1) elementary geography; one (1) physiology and hygiene, including a system of gymnastic exercises, and special instructions as to the nature of alcoholic drinks and narcotics, and their effects upon the human system; and the sum of fifteen thousand dollars, in addition to the unexpended balance of the sum appropriated by section eight of said act aforesaid, is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of compiling, or causing to be compiled, the text-books hereinbefore enumerated, together with those enumerated in

section one of said act aforesaid, and still remaining to be compiled. The appropriation provided for in this section shall be subject to the order of the state board of education; provided, that all demands against said appropriation shall first be approved by said state board of education, and presented to the state board of examiners, in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

§ 2. The state board of education shall employ well-qualified persons to compile the books mentioned in section one of this act, and shall fix the remuneration for the services thus rendered; provided, that if competent authors shall compile any one or more works of the first order of excellence, and shall offer the same as a free gift to the people of the state, together with the copyright of the same, and the exclusive right to manufacture and sell such works within the state of California, it shall be the duty of the state board of education to accept such gift, and to expend no money for the purpose of compiling works relating to the subjects treated of in the books thus donated. The state board of education shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the said series of text-books.

§ 3. The printing of all the text-books provided for in section one of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing, at the state printing office; provided, that the purchase of paper for the school books, and the cardboards, cloth, and leather for covers, shall be procured by advertising for proposals to furnish the same in the manner now provided for by section five hundred and thirty-two of the Political Code, relating to paper supplies for the state printing office; and provided further, that all folding, stitching, binding, and ruling shall be done in the state bindery; but the accounts of the school-book binding shall be kept separate from those of all other binding. The sum of one hundred and sixty-five thousand dollars, in addition to the unexpended balance of the sum appropriated by section nine of said act aforesaid, approved February twenty-sixth, eighteen hundred and eighty-five, seven thousand five hundred dollars of which shall be available during the present fiscal year, is hereby appropriated out of any money in the state treasury not otherwise appropriated, to purchase the necessary machinery, and to properly maintain the same, and to purchase such type and other materials as may be required in the manufacture of the text-books provided for in section one of this act, together with those enumerated in section one of said act aforesaid, approved February twenty-sixth, eighteen hundred and eighty-five, and remaining to be manufactured, as well as to pay the salaries or wages of the compositors, binders, and other persons to be employed in such manufacture; provided, that the state board of education shall first approve the style of printing, engravings, and illustrations, kind of paper, size, and binding of volumes; said sum to be drawn by the superintendent of state printing in the same manner as provided in subdivision four of section five hundred and twenty-six of the Political Code.

§ 4. The state board of education shall secure copyrights to all the books that

shall be compiled under the provisions of this act, and shall protect said copy-rights from all infringement.

§ 5. All moneys that have been received or may hereafter be received from the state series of school text-books shall be kept by the state treasurer as a separate and distinct fund, to be known as the "State School Book Fund," which said fund shall be subject to the following drafts, viz.: By the superintendent of state printing for all moneys needed for manufacturing any editions of any book of the state series, over and above the first fifty thousand copies manufactured of such book, the same to be drawn as provided in subdivision four of section five hundred and twenty-six of the Political Code; provided, that all demands on the state school book fund shall be presented to the state board of examiners in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

§ 6. This act shall take effect from and after its passage.

SCHOOL BOOKS—COMPILING.

To provide for compiling, illustrating, electrotyping, printing, binding, copy-righting, and distributing an elementary book on civil government, for the state series of school text-books.

(Stats. 1889, 327, ch. CCXVII.)

§ 1. The state board of education shall compile, or cause to be compiled, the following described text-book for use in the common schools of the state, viz.: One (1) elementary book on the civil government of the United States, with a special analysis of the government of the state of California.

§ 2. The printing of said elementary book on civil government, provided for in section one of this act, shall be done by and under the supervision of the superintendent of state printing, subject to the provisions of section three of an act entitled an act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing certain books of a state series of school text-books, and appropriating money therefor, approved March fifteenth, eighteen hundred and eighty-seven.

§ 3. This act shall take effect from and after its passage.

SCHOOL BOOKS—REVISION.

To provide for the revision of certain books of the state series of school text-books, for the compilation of an additional book of said series, and for the continued publication of the same; and to authorize and direct the use, for these purposes, of the money accumulated in the state school book fund.

(Stats. 1893, 85, ch. LXXVI.)

§ 1. The state board of education is hereby authorized and directed to revise the following books of the state series of school text-books, viz.: The first, second, and third readers, the English grammar, the United States history, and the advanced arithmetic, and to compile a primary history of the United States; and

in such revision and compilation may employ well-qualified persons to assist them; provided, that in revising said readers the board may cause them to be issued in a series of five books or less, in their discretion; and the board shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the books revised and compiled under the provisions of this section.

§ 2. All indebtedness incurred by said board in carrying out the provisions of section one of this act shall be paid out of the money accumulated in the state school book fund from the sale of the state series of school text-books; provided, that all demands on account of such indebtedness shall first be approved by said state board of education, and presented to the state board of examiners, in itemized form, for their approval, and upon the approval thereof by the state board of examiners the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same; provided further, that the indebtedness incurred by said board in carrying out the provisions of section one of this act shall not exceed the sum of twenty-five thousand dollars (\$25,000), which sum is hereby appropriated from the state school book fund for the use of the said board in the premises.

§ 3. The state board of education shall secure copyrights to all the books that shall be revised or compiled, as the case may be, under the provisions of this act, and shall protect said copyrights from all infringement.

§ 4. Whenever any one or more of the state series of school text-books shall have been revised or compiled, the state board of education shall issue an order requiring the uniform use of said book or books in the common schools of the state; but said order for the uniform use of said book or books shall not take effect till the expiration of at least one year from the time of the completion of the electrotype plates of said book or books. Nothing in this act shall be construed to prevent any county, city, city and county, or school district from using any one or more of the state series of school text-books provided for in this act, whenever said book or books shall have been published.

§ 5. The printing and binding of all text-books, specified in section one of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing, at the state printing-office; provided, that the purchase of paper for the school books, and the binders' boards, cloths, and leather for covers, shall be procured by advertising for proposals to furnish the same, in the manner now provided for by section five hundred and thirty-two of the Political Code, relating to paper supplies for the state printing-office.

§ 6. Whenever the appropriations heretofore made from the general fund to the use of the superintendent of state printing for the manufacture of books of the state series of school text-books is [are] exhausted, all indebtedness incurred for the further manufacture of said books shall be paid from the state school book fund, together with all indebtedness incurred for the purchase and proper maintenance of such necessary machinery as may be required in the manufacture of said books, and to purchase such type and other materials as may be required for the same; provided, that all demands on the state school book fund, for the pur-

poses enumerated in this section, shall be presented to the state board of examiners, in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

§ 7. This act shall take effect immediately.

See tit. Schools.

SCHOOLS—CITIES OF THE FIFTH CLASS.

To enable school districts, in cities of the fifth class, and school districts which embrace territory a portion of which is within and a portion of which is without such cities of the fifth class, to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes, and to repeal an act approved March thirty-first, eighteen hundred and ninety-one, entitled "An act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes."

(Stats. 1893, 292, ch. CCX; amended 1897, 103, ch. XCIX.)

§ 1. The board of education of any school district in a city of the fifth class, or of any school district which embraces territory, a portion of which is within and a portion of which is without such city of the fifth class, may, when in their judgment it is advisable, and must, when requested by the board of trustees of such city, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes. [Amendment, Stats. 1897, 103.]

§ 2. Such election must be called by posting notices, signed by the board of education, in three of the most public places in the district, for not less than twenty days before the election, and by publishing such notices, in some newspaper published in such city, not less than once a week for three successive weeks.

§ 3. Such notices must contain:

1. The time and place of holding such election.
2. The names of one inspector and two judges in each voting precinct in said district, to conduct the same.

3. The hours during the day, not less than six hours, in which the polls will be open.

4. The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding ten, the whole or any part of said bonds are to run.

§ 4. Such election shall be held, in all respects as nearly as practicable, in conformity with the general election law; provided, that no particular form of ballot shall be required, excepting that the words to appear on the ballots, which shall be "Bonds—Yes," or "Bonds—No"; nor shall any informalities, not amounting to fraud, in conducting such election, invalidate the same.

§ 5. On the seventh day after said election, at one o'clock p. m., the returns having been made to the board of education, the board must meet and canvass said returns, and if it appears that two thirds of the votes cast at said election were in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes, and shall certify to the board of supervisors of the county in which said district is located the proceedings had in the premises; and thereupon said board of supervisors shall be and they are hereby authorized and directed to issue the bonds of such district to the number and amount provided in such proceedings, payable out of the bond fund of such district (naming the same), and that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds, and the payment of the interest thereon; provided, that the total amount of bonds so issued shall not exceed five per centum of the taxable property of the district as shown by the last equalized assessment of the property in such school district.

§ 6. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than ten years from the date thereof.

§ 7. Said bonds must be payable in gold coin of the United States; must be signed by the president of the board of supervisors, and countersigned by the clerk of the county, who must affix the county seal thereto; must not bear a greater rate of interest than eight per centum, said interest to be payable semi-annually in like gold coin; and said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par, in gold coin of the United States, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of said school district, and be drawn out for the purpose aforesaid as other school moneys are drawn out.

§ 8. The board of supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district for the interest and redemption of said bonds; and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay such annual interest; and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run; and all moneys so levied, when collected, shall be paid into the county treasury to the credit of the building fund of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer, upon the warrant of the auditor, out of the fund provided therefor; and it shall be the duty of the auditor to cancel and file with the treas-

urer the bonds and coupons as rapidly as they are paid. This section shall also apply to all cases where bonds were issued under the provisions of the aforesaid act, approved March thirty-first, eighteen hundred and ninety-one, and in such cases all moneys collected under the provisions of this section shall be paid by the county treasurer, upon the warrant of the auditor, to the city treasurer of the city where such bonds and the interest thereon are payable. Warrants for all such moneys shall be drawn by the auditor from time to time, upon the demand of such city treasurer. [Amendment, Stats. 1897, 104.]

§ 9. If the board of supervisors of any county in which any school district has issued bonds, under the provisions of this act or under the provisions of said act approved March thirty-first, eighteen hundred and ninety-one, shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the county treasurer, and the payment thereof refused, the owner may file the bonds, together with all unpaid coupons, with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to be levied in said district a sufficient rate to raise the amount of principal and interest past due prior to the next levy, and the same shall be levied and collected as a part of the state tax, and paid into the state treasury, and passed to the special credit of such district bond tax, and shall be paid by warrants, as the payments mature, to the holder of such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged; any balance then remaining shall be transmitted to the treasurer of the county in which is situated the district by which such bonds were issued, and shall be placed by the county treasurer to the credit of the general school fund of said district. [Amendment, Stats. 1897, 104.]

§ 10. The act approved March thirty-first, eighteen hundred and ninety-one, entitled "An act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes," is hereby repealed.

§ 11. This act shall take effect and be in force from and after its passage.

SCHOOLS—DISTRICT BONDS.

To provide for the disposal of moneys remaining in the building fund of any school district, after all bonds and indebtedness shall have been paid and liquidated, arising from the construction of school buildings.

(Stats. 1883, 298, ch. LXXIV.)

§ 1. All moneys that have been or shall be raised by special tax, for the purpose of erecting school buildings, that shall remain in the hands of the county treasurer, after all bonds that have been or may be issued on account of such buildings shall have been redeemed, and all other indebtedness arising on account of such building[s] shall have been liquidated, shall be placed in the county school fund of the school district for which such moneys were raised, subject to the order of the trustees of said district.

SCHOOLS—DISTRICTS, NAME.

To provide for the change of name of school districts and the manner of making such change.

(Stats. 1903, 163, ch. CXLVIII.)

§ 1. Whenever a petition shall be presented to the board of supervisors, signed by at least fifteen qualified electors of said district, asking that the name of any school district be changed, the said board of supervisors shall designate a day upon which they will act upon such petition, which day must not be less than ten days nor more than forty days after the receipt thereof. The clerk of the said board of supervisors must give notice to all parties interested, by sending by registered mail to each of the trustees of such school district, a notice of the time set for the hearing of said petition, which notice must be mailed at least ten days before the day set for hearing, whereupon the board shall by resolution either grant or deny the petition, and if granted, the clerk shall notify the county superintendent of the change of the name of said district.

§ 2. This act shall take effect immediately.

SCHOOL DISTRICTS—CONFIRMING.

Confirming the organization of school districts.

(Stats. 1905, 243, ch. CCLXVIII.)

§ 1. All school districts in this state that for a period of five (5) years have been acting as school districts under the laws of this state, are hereby declared to be duly incorporated and to be bodies politic under the laws of this state, and as such school districts, under their appropriate names, shall have all the rights and privileges and be subjected to all of the duties and obligations of duly incorporated school districts.

§ 2. This act shall take effect immediately.

SCHOOLS—FEMALE TEACHERS.

To make women eligible to educational offices.

(Stats. 1873-4, 356, ch. CCLVII.)

§ 1. Women over the age of twenty-one years, who are citizens of the United States and of this state, shall be eligible to all educational offices within this state except those from which they are excluded by the constitution.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed. This act shall take effect from and after its passage.

SCHOOLS—FEMALE TEACHERS.

To prevent discrimination against female teachers.

(Stats. 1873-4, 938, ch. DCLXVII.)

§ 1. Females employed as teachers in the public schools of this state shall in all cases receive the same compensation as is allowed male teachers for like services when holding the same grade certificates.

§ 2. This act shall take effect and be in force from and after its passage.

SCHOOLS—STATE SUPERINTENDENT, CLERK.

To provide for the appointment and salary of a clerk in the office of the superintendent of public instruction, and to make an appropriation therefor.

(Stats. 1895, 238, ch. CXCII.)

§ 1. The superintendent of public instruction may appoint an additional clerk, who shall be a stenographer, at a salary of twelve hundred dollars per year, payable in the same manner as the salaries of other civil officers of the state are paid.

§ 2. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of twenty-four hundred dollars, for the payment of said clerk's salary for the forty-seventh and forty-eighth fiscal years, commencing July first, eighteen hundred and ninety-five.

§ 3. This act shall take effect immediately.

SCHOOLS—TEACHERS' CERTIFICATES.

To continue in force school teachers' certificates, state educational diplomas, and life diplomas.

(Stats. 1880, 4, ch. V.)

§ 1. All teachers' city, city and county, county, and state certificates, state educational diplomas, life diplomas, and all other teachers' certificates and diplomas issued in the state of California, under and in pursuance of the laws thereof, on or before the thirty-first day of December, anno Domini eighteen hundred and seventy-nine, shall be and the same are hereby continued in full force and effect, and shall be deemed valid for all purposes and to the full extent of time that the same were and were intended respectively to be under the said laws, on and before the said thirty-first day of December, anno Domini eighteen hundred and seventy-nine.

§ 2. This act shall take effect from and after its passage.

The foregoing and next two succeeding acts were rendered expedient upon the taking effect of the constitution of 1879, and served a temporary purpose.

SCHOOLS—TEACHERS' CERTIFICATES.

To continue in operation the public schools of this state.

(Stats. 1880, 7, ch. XIII.)

§ 1. The county superintendent of schools of each and every county in this state is hereby empowered to issue a temporary certificate to any teacher whose certificate has expired, or shall expire between the first day of January, eighteen hundred and eighty, and the first day of June, eighteen hundred and eighty. The certificate so granted shall be of the same grade as the one in place of which it is issued, and shall be valid only until the first meeting of the board which shall be competent to issue teachers' certificates.

§ 2. This act shall take effect immediately.

SCHOOLS—TO CONTINUE IN OPERATION.

To protect the school districts of this state from injury during the year eighteen hundred and eighty, by the operation of section twelve of article thirteen of the constitution.

(Stats. 1880, 75, ch. LXXII.)

§ 1. No school district shall forfeit or be deprived of its apportionment of state and county school funds which shall fail to maintain a six months' school during the year ending June thirtieth, eighteen hundred and eighty, by reason of the change requiring the moneys to be derived from poll-taxes to be paid into the state school fund instead of, as heretofore, into the county school fund, section one thousand eight hundred and fifty-nine of the Political Code to the contrary notwithstanding.

§ 2. District trustees, superintendents of schools and county auditors are hereby granted power to draw their orders, requisitions, or warrants against the August apportionment of school moneys for the year eighteen hundred and eighty, in payment for the salaries of teachers for services rendered prior to June thirtieth, and in the year eighteen hundred and eighty; and it is also made the duty of the county treasurer of the several counties of this state to honor and pay such warrant as other warrants drawn upon the school fund are paid, section one thousand six hundred and twenty-one of the Political Code to the contrary notwithstanding.

§ 3. It is hereby made the duty of the county auditors of the several counties of this state, on or before the first regular meeting of their respective boards of supervisors in September, eighteen hundred and eighty, to certify to said board the total amount of the warrants issued by him, in accordance with section two of this act, and the amount so certified shall by said board of supervisors be added to the other amounts which shall be found necessary to be raised for county school purposes, and when so added shall be levied, assessed, and collected, and paid into the county treasury to the credit of the county school fund, as other school taxes are levied, assessed, collected, and paid, and shall thereafter be used and expended as other county school funds are used and expended.

§ 4. This act shall take effect from and after its passage.

SCHOOLS—TAXES.

To provide for the levy and collection of taxes by and for school districts, except in municipal corporations of the first class.

(Stats. 1891, 4, ch. VI.)

§ 1. In all cases where the board of school trustees, board of school directors, board of education, or other governing board of any school district in this state, except in [a] municipal corporation of the first class, has or may hereafter have power to raise money by taxation without a vote of the people of the school district, in addition to the funds provided by state and county for school or educational purposes, such money shall be raised and such taxes shall be levied and collected in the manner following, to wit: The board of trustees, directors, or board of education shall, within the limits fixed by law, estimate the amount of money to be so raised by taxation, and required by their respective districts for

school purposes during the year next ensuing, which year shall begin on the first Monday of January, at twelve o'clock m. Said meeting for such purpose shall be held between the first and twentieth day of September in each year; said estimate, showing the amount and for what purpose the same is to be used, shall be entered upon the records of the board making the same, and signed by a majority of said board, and attested by the clerk or secretary of said board. Said clerk or secretary shall immediately furnish to the board of supervisors of the county in which such district is situated a copy of said record containing such estimate, which shall show the name of the district, the amount of money to be raised, and the purposes for which it is to be used.

§ 2. The board of supervisors, upon receipt of such estimate, must, at the time of levying the county taxes, levy a tax upon all the taxable property in the school district requiring such money sufficient to raise the amount; the rate of taxation shall be ascertained by deducting fifteen per centum for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll of the county, and then divide the amount to be raised by the remainder of said aggregate assessed value. The taxes so levied shall be computed and entered on the assessment roll by the county auditor, and collected at the same time and in the same manner as state and county taxes; and when collected, shall be paid into the county treasury for the use of the district for which said money was collected. The county treasurer shall, upon demand, pay out such moneys to the district entitled thereto, in the same manner as other school moneys are paid out by such treasurer.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed. *

Compare with **KERR'S CYC. POL. CODE** §§ 1830, 1836. See also notes to those sections.

SCHOOLS.

See **tits. California Polytechnic; Health—Public—(Vaccination); High Schools; Normal Schools; Preston School of Industry; School Books; Whittier Reform School.**

SEA-GULLS—KILLING.

The statute of 1875-6, 287, has been carried into the Penal Code by Stats. 1905, 687, ch. DXXIV. See **KERR'S CYC. PENAL CODE** §§ 599, 599a.

SEAWALL—SAN FRANCISCO.

To provide for the issuance and sale of state bonds to create a fund for the construction by the board of state harbor commissioners of a seawall and appurtenances in the city and county of San Francisco; to create a sinking fund for the payment of said bonds; and providing for the submission of this act to a vote of the people.

(Stats. 1903, 247, ch. CCXI.)

§ 1. For the purpose of providing a fund for the payment of the indebtedness hereby authorized to be incurred by the board of state harbor commissioners for the erection of a seawall and appurtenances in the city and county of San Francisco, at a cost not to exceed two million dollars (which said seawall and appurtenances the board of state harbor commissioners are hereby empowered to

construct in the manner authorized by law, and at a cost not to exceed said two million dollars), the state treasurer shall, immediately after the issuance of the proclamation of the governor, provided for in section ten hereof, prepare two thousand suitable bonds of the state of California, in the denomination of one thousand dollars each. The whole issue of said bonds shall not exceed the sum of two million dollars, and said bonds shall bear interest at the rate of four per centum per annum, from the time of the sale thereof, and both principal and interest shall be payable in gold coin of the present standard of value, and they shall be payable at the office of the state treasurer, at the expiration of nineteen years from their date, subject, however, to redemption by lot as in this act hereinafter provided. Said bonds shall bear date, the second day of January, anno Domini nineteen hundred and five, and shall be made payable on the second day of January, nineteen hundred and twenty-four anno Domini. The interest accruing on such of said bonds as are sold, shall be due and payable at the office of the said state treasurer on the second day of January, and on the second day of July, of each year after the sale of the same; provided, that the first payment of interest shall be made on the second day of January, anno Domini nineteen hundred and six, on so many of said bonds as may have been theretofore sold. At the expiration of nineteen years from the date of said bonds, all bonds sold shall cease to bear interest, and, likewise, all bonds redeemed by lot shall cease to bear interest as in this act provided, and the said state treasurer shall call in, forthwith pay, and cancel the same, out of the moneys in the San Francisco seawall sinking fund provided for in this act, and he shall, on the first Monday of January, nineteen hundred and twenty-four, also cancel and destroy all bonds not theretofore sold. All bonds issued shall be signed by the governor, and countersigned by the controller, and shall be indorsed by the state treasurer, and each shall have the seal of the state stamped thereon. Each bond shall contain a clause that it is subject to redemption by lot after the year nineteen hundred and fourteen.

§ 2. Interest coupons shall be attached to each of said bonds, so that such coupons may be removed without injury to or mutilation of the bond. Said coupons shall be consecutively numbered, and shall be signed by the state treasurer. But no interest on any of said bonds shall be paid for any time which may intervene between the date of any of said bonds and the issue and sale thereof to a purchaser.

§ 3. The sum of one thousand dollars is hereby appropriated to pay the expense that may be incurred by the state treasurer in having said bonds prepared. Said amount shall be paid out of the San Francisco harbor improvement fund on controller's warrants duly drawn for that purpose.

§ 4. When the bonds authorized to be issued under this act shall be duly executed, they shall be by the state treasurer sold at public auction to the highest bidder for cash, in such parcels and numbers as said treasurer shall be directed by the governor of the state, under the seal thereof, after a resolution requesting such sale shall have been adopted by the board of state harbor commissioners; but said treasurer must reject any and all bids for said bonds, or for any of them, which shall be below the par value of said bonds so offered; and he may, by public announcement at the place and time fixed for the sale, continue such sale, as to the whole of the bonds offered, or any part thereof offered, to such time and place as he may select. Due notice of the time and place of sale of all bonds

must be given by said treasurer by publication in two newspapers published in the city and county of San Francisco, and also by publication in one newspaper published in the city of Oakland, and by publication in one newspaper published in the city of Los Angeles, and by publication in one newspaper published in the city of Sacramento, once a week during four weeks prior to such sale. The costs of such publication shall be paid out of the San Francisco harbor improvement fund, on controller's warrants duly drawn for that purpose. The proceeds of the sale of such bonds shall be forthwith paid over by said treasurer into the treasury, and must be by him kept in a separate fund, to be known and designated as the "San Francisco Seawall Fund" and must be used exclusively for the construction of seawalls and appurtenances thereto on the water front of the city and county of San Francisco. Drafts and warrants upon said fund shall be drawn upon and shall be paid out of said fund in the same manner as drafts and warrants are drawn upon and paid out of the San Francisco harbor improvement fund.

§ 5. For the payment of the principal and interest of said bonds a sinking fund, to be known and designated as the "San Francisco Seawall Sinking Fund," shall be and the same is hereby created, as follows: The state treasurer shall, on the first day of each and every month after the sale of said bonds, take from the San Francisco harbor improvement fund such sum as, multiplied by the time the bonds then sold and outstanding have to run, will equal the principal of the bonds sold and outstanding at the time said treasurer shall so take said sum from said San Francisco harbor improvement fund, less the amount theretofore taken therefrom for said purpose; and he shall place the sum in the San Francisco seawall sinking fund created by this act. Said state treasurer shall, on controller's warrants duly drawn for that purpose, employ the moneys in said sinking fund in the purchase of bonds of the United States, or of the state of California, or of the several counties or municipalities of the state of California, which said bonds shall be kept in a proper receptacle, appropriately labeled; but he must keep always on hand a sufficient amount of money in said sinking fund with which to pay the interest on such of the state bonds herein provided to be issued as may have theretofore been sold. And to provide means for the payment of interest on the bonds that may be sold and outstanding, said treasurer shall monthly take from the San Francisco harbor improvement fund, and pay into said seawall sinking fund, an amount equal to the monthly interest then due on all bonds then sold, delivered and outstanding. The board of state harbor commissioners are hereby authorized and directed by the collection of dockage, tolls, rents, wharfage and crantage, to collect a sum of money sufficient for the purposes of this act, over and above the amount limited by section two thousand five hundred and twenty-six of the Political Code of the state of California. Between the first and the tenth day of November, in the year nineteen hundred and fourteen, and between the first and the tenth day of November of each year thereafter until the maturity of said bonds, the said treasurer shall, in the presence of the governor, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund at that time, and shall thereupon and before the tenth day of December following, give notice by public advertisement to be inserted twice a week for two weeks in two newspapers published in the city and county of San Francisco, and also in

one newspaper published in the city of Oakland, and also in one newspaper published in the city of Los Angeles, and also in one newspaper published in the city of Sacramento, stating the number of bonds so drawn and that the principal of said bonds will be paid on presentation to the treasurer on or before the second day of January, following, and that from and after such last-named date all interest upon bonds thus drawn shall cease and it shall be the duty of the treasurer as soon as said bonds so drawn by lot are surrendered to him and paid to cancel the same and the interest coupons thereon, and each year beginning with the year nineteen hundred and fourteen the said treasurer shall, in the manner aforesaid, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund, and proceed in the manner hereinabove stated. After the payment of all of said bonds, the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the San Francisco harbor improvement fund. At the time of the respective drawings by lot as aforesaid, and also at the maturity of said state bonds, said treasurer shall sell the United States or other bonds then in said sinking fund, at governing market rates, after advertising the sale thereof in the manner hereinbefore provided for the sale of bonds hereby authorized to be issued, and shall use the proceeds for the payment of such bonds as may be drawn by lot, and at the maturity of said bonds outstanding shall pay and redeem said matured outstanding bonds out of said moneys in said fund in extinguishment of said bonds on controller's warrants duly drawn for that purpose.

§ 6. The state controller and the state treasurer shall keep full and particular account and record of all their proceedings under this act, and they shall transmit to the governor an abstract of all such proceedings thereunder, with an annual report, to be by the governor laid before the legislature biennially; and all books and papers pertaining to the matter provided for in this act shall at all times be open to the inspection of any party interested, or the governor, or the attorney-general, or a committee of either branch of the legislature, or a joint committee of both, or any citizen of the state.

§ 7. It shall be the duty of the state treasurer to pay the interest of said bonds, when the same falls due, out of the sinking fund provided for in this act, on controller's warrants duly drawn for that purpose.

§ 8. This act, if adopted by the people, shall take effect on the thirty-first day of December, anno Domini nineteen hundred and four, as to all its provisions except those relating to and necessary for its submission to the people, and for returning, canvassing, and proclaiming the votes, and as to said excepted provisions this act shall take effect immediately.

§ 9. This act shall be submitted to the people of the state of California for their ratification at the next general election, to be holden in the month of November, anno Domini nineteen hundred and four; and all ballots at said election shall have printed thereon, and at the end thereof, the words "For the San Francisco Seawall Act," and in a separate line under the same the words "Against the San Francisco Seawall Act," and opposite said lines there shall be left spaces in which the voters may make or stamp a cross to indicate whether they vote for or against the said act, and those voting for said act shall do so by placing a

cross opposite the words "For the San Francisco Seawall Act," and all those voting against the said act shall do so by placing a cross opposite the words "Against the San Francisco Seawall Act." The governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation calling for said general election.

§ 10. The votes cast for or against this act shall be counted, returned and canvassed and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appear that said act shall have received a majority of all the votes cast for and against it at such election, as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrepealable until the principal and interest of the liabilities herein created shall be paid and discharged, and the governor shall make proclamation thereof; but if a majority of the votes cast as aforesaid are against this act, then the same shall be and become void.

§ 11. This act may be known and cited as the "San Francisco Seawall Act."

§ 12. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SECRETARY OF STATE—ARCHIVES.

To provide for fitting up in the basement of the capitol building a moisture-proof, fire-proof and burglar-proof vault for storage and care of the archives of the state offices, for the appointment of a keeper of the archives, defining his duties, fixing his salary, and appropriating money for the purposes appertaining thereto.

(Stats. 1889, 451, ch. CCLXXXIX.)

§ 1. The secretary of state is the custodian of the public archives, and that he may be enabled the more certainly to secure their safety, he is hereby authorized and directed to cause to be constructed in the basement of the state capitol building, a moisture-proof, fire-proof, and burglar-proof vault for storage and care of such archives as may be delivered to him by the various state officials, the work of said construction to be done by day labor of experienced and competent workmen, under the direction, supervision, and to the satisfaction of said secretary of state.

§ 2. All materials used in the construction of said vault shall be of the best that can be had, and all work done shall be by day's labor, of eight hours each; and no workmen shall be employed thereon who are not in good standing with their various crafts.

§ 3. The secretary of state shall have said vault fitted up with a view to the requirements for space of all the various state offices, and shall designate the space allotted to each by appropriately lettered compartments, suitable for each department of the government, and shall have the same provided with the proper drawers, desks, pigeon-holes, and other necessary compartments for the use and convenience of each.

§ 4. The secretary of state shall appoint a competent person to the position of keeper of the archives, who shall receive from and receipt to the various departments for all books, papers, vouchers, maps, contracts, and other archives

of the state deposited with him, and shall so place and arrange them that, when called upon, he can find any one of them readily; and, as a means to accomplish this, he shall prepare a complete index to the records from each department of the state, for every fiscal year covered by all the records so deposited with him; and in the arrangement of said records he shall so classify them that the other records that may be afterwards delivered to him shall have proper place and room in connection with other records of like character.

§ 5. Said keeper of the archives shall be assigned to the position of an official in the office of secretary of state and shall there be in constant attendance for call to duty as such keeper of the archives; and he is hereby authorized in such capacity to sign as deputy all papers required of him the name of the secretary of state.

§ 6. In case of the absence or inability of said keeper of the archives to perform the duties of his position, the deputy secretary of state is hereby authorized to act in his stead.

§ 7. The salary of the keeper of the archives is two thousand dollars per year, and shall be paid as the salaries of other state officials are paid. The salary of said official shall not begin till the completion of said vault.

§ 8. The sum of ten thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the construction of said vault; four thousand dollars for salary of the said keeper of the archives for the forty-first and forty-second fiscal years. The controller is hereby authorized to draw his warrants for the amounts herein made payable, and the treasurer directed to pay the same.

§ 9. This act shall take effect immediately.

SECRETARY OF STATE—CLERKS FOR.

See Stats. 1889, 451; 1899, 143, codified as § 415 Political Code, Stats. 1903.

SECRETARY FOR SUPERIOR COURT.

See tit. Superior Court.

SEDUCTION.

It is believed that the Act of 1872, 148, ch. CLXV, is superseded by § 266, Penal Code, as amended in 1873-4, 429.

As to the former statute, see *People vs. Roderigas*, 49 Cal. 9.

SENATORIAL DISTRICTS.

See tit. Legislature.

SEWERS.

See tits. Municipal Corporations; Streets.

SHAD.

See tit. Fish and Game.

SHASTA COUNTY—ADDITIONAL JUDGE.

To increase the number of judges of the superior court of the county of Shasta, state of California, and for the appointment of such additional judge.

(Stats. 1905, 315, ch. CCCI.)

§ 1. The number of judges of the superior court in the county of Shasta, state of California, is hereby increased from one to two.

§ 2. Within thirty days after the passage of this act the governor shall appoint one additional judge of the superior court in the county of Shasta, state of California, who shall hold office until the first Monday after the first day of January, anno Domini nineteen hundred and seven. At the next general election to be held in November, anno Domini nineteen hundred and six, one additional judge of said superior court shall be elected in said county who shall be the successor to the judge appointed hereunder to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of such additional judge shall be the same in amount and be paid in the same manner and at the same time as the salary of the other judge of the superior court of said county now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

SHASTA—TOWN.

See tit. Municipal Corporations.

SHEEP.

See tits. Animals; Dogs; License Taxes; Quarantine; Sheep Herding.

SHEEP COMMISSIONER.

See tits. Animals; Dogs; Quarantine; Sheep and Goats.

SHEEP HERDING.

The following special legislation on this subject is noted, though it is probable that none of it is now in force:

Stats. 1857, 227, restricting herding of in Sonoma and Marin counties.

Stats. 1858, 165,—§ 1 of above was amended so as to include the counties of Sonoma, Marin, San Mateo, Santa Clara, Sutter, Tulare, San Bernardino, Los Angeles, Contra Costa, Alameda, San Joaquin, Placer, Colusa, Stanislaus, Calaveras, Yolo, Sacramento, Humboldt, Monterey, Merced, and San Luis Obispo.

Stats. 1859, 119.—§ 1 was amended so as to further include the counties of Solano, Mariposa, and Napa.

Stats. 1860, 332.—§ 1 was amended by adding Mendocino County, and § 5 was amended by providing that nothing in the act should be construed to prohibit the herding of sheep upon unoccupied government or state public lands, with a proviso relating to Mendocino, Calaveras, Yuba, and Merced counties.

Stats. 1869-70, 304.—§§ 1 and 5 were again amended relative to the particular counties

to which the provisions of the statute should apply. As to Modoc County, see Stats. 1877-8, 241.

Stats. 1871-2, 890.—§§ 1 and 5, as amended in 1869-70, are amended by change in names of some of the counties to be affected.

Stats. 1877-8, 79.—The foregoing acts are repealed as to the counties of Mendocino and Humboldt, and apparently leaving the act in force in the counties of Sonoma, Solano, Marin, San Mateo, Sutter, Santa Clara, San Bernardino, Los Angeles, Contra Costa, Alameda, San Joaquin, Placer, Colusa, Stanislaus, Calaveras, Yolo, Sacramento, Humboldt, Monterey, Merced, San Luis Obispo, Mariposa, Napa, Mendocino, and Shasta, with the proviso concerning public lands, as applicable to Mendocino, Calaveras, Merced, and Shasta counties.

There may be some special legislation, affecting particular counties, on the subject of herding sheep still in force, but the subject is sufficiently indefinite, and so peculiarly local, that these are omitted in this publication.

See tit. Animals—Estrays.

SHEEP AND GOATS.

See tit. Dogs.

SHEEP INSPECTOR.

See tit. Animals.

SHEEP-KILLING DOGS.

See tit. Dogs.

SHERIFF—BADGES.

To authorize the boards of supervisors to furnish the sheriff and deputy sheriffs of their several counties with a suitable badge of office.

(Stats. 1875-6, 803, ch. DXXXV.)

§ 1. The boards of supervisors of the several counties of this state must furnish to the sheriff, under-sheriffs, and deputy sheriffs, of their respective counties a suitable badge of office, upon which shall be inscribed the words "sheriff" and "deputy sheriff."

§ 2. This act shall take effect from and after its passage.

SHERIFFS—CONVEYING INSANE, ETC.

The Act of 1885, 126, ch. CXXXVI, as amended 1889, 200, ch. CLXV, is believed to be superseded by the County Government Act § 215.

SHERMAN ISLAND.

An act for the protection of roads on Sherman Island (1877-8, 601, ch. CCCCXII) might be used there. But see the subsequent general law contained in subd. 34, relating to the width of wagon tires that § 25, County Government Act.

SIGNALS—BELLS.

See tit. Mining.

SILK CULTURE.

To establish a state board of silk culture, and to provide moneys for the expenses thereof.

(Stats. 1885, 216, ch. CLXV.)

§ 1. There shall be established a state board of silk culture, consisting of seven persons appointed by the governor from the state at large, three of whom shall be members of the Ladies' Silk Culture Society of California.

§ 2. A majority of the members so appointed shall be specially qualified by practical experience and study of the silk industry. Each member shall hold office for the term of four years except those first appointed, three of whom, to be determined by lot, shall retire at the end of two years, when their successors shall be appointed by the governor.

§ 3. The board may appoint and prescribe the duties of a secretary, and elect one of their own number treasurer, both to hold office at the pleasure of the board. The treasurer shall give a bond to the state, approved by the board, in the sum of ten thousand dollars for the faithful discharge of his or her duties.

§ 4. The board may receive, manage, and use donations or bequests for promoting silk culture in this state. They shall establish a filature or silk-reeling school in San Francisco, wherein free instruction shall be given in silk reeling. The board shall use the moneys appropriated by the state to advance the interest of silk culture in this state as they deem best and proper.

§ 5. The secretary in addition to performing such official duties as the board may direct, shall collect statistics and other information showing the condition and progress of sericulture throughout the state; correspond with various societies and individuals, both at home and abroad, who are engaged in the promotion of silk culture, and shall prepare a full report thereof to be made to the board annually for their publication.

§ 6. The board shall, biennially, in the month of December, have their biennial report printed, and submit the same to the legislature upon its convening. The detailed report so made shall, under the direction of the controller, be printed in pamphlet form, not to exceed fifty printed pages, and not to exceed three thousand copies thereof, to be distributed as the board may direct. All printing required to be done by the board for their official use shall be done by the state printer.

§ 7. The treasurer shall hold all moneys of the board and pay out the same only on orders approved by the board, and shall account therefor in his or her annual report.

§ 8. No remuneration or salaries shall be paid to any member of the board, its officers, or superintendent, for services rendered; nor shall any moneys be used in the purchase of trees, cuttings, eggs, cocoons, or anything pertaining to silk culture, for the purpose of a free distribution of the same, in excess of five hundred dollars per year.

§ 9. There is hereby appropriated for the use of the state board of silk culture, as set forth in this act, out of any moneys in the state treasury not otherwise appropriated, the sum of five thousand dollars for the year commencing the first of July, eighteen hundred and eighty-five, and five thousand dollars for the year commencing the first of July, eighteen hundred and eighty-six, and the state controller shall draw his warrants upon the state treasurer in favor of the treasurer of the board, as such officer, for the said sums, or any parts thereof, when they become available, upon the proper demand of said board.

§ 10. Upon the organization of the board of silk culture, provided for in this act, the present state board of silk culture shall turn over to the board herein provided for all books, papers, and property in its possession belonging to the state, and the board hereby created shall pay the just debts of the present board of silk culture.

§ 11. This act shall take effect from and after its passage, and all acts or parts of acts in conflict with this act are hereby repealed.

Appropriations for the board of silk culture seem to have ceased since 1887.

SLEEPING APARTMENTS.

See tit. Lodging-Houses

SOCIETIES.

See tits. Animals—Prevention of Cruelty to; Mutual Benefit Societies.

SOLANO COUNTY—RECORDS.

To legalize certain records in the county of Solano.

(Stats. 1857, 159, ch. CXXXV.)

§ 1. The records of all deeds, conveyances, mortgages, and other instruments of writing, of whatever description, which by law are required to be recorded, and which are recorded in certain books of record now remaining in the office of the county recorder of Solano County, known and designated as book "A" and book "B," containing the record of deeds, mortgages, and other documents relating to lands and real estate in Solano County, and which were recorded in said books of record previous to the passage of the "Act concerning county recorders," passed March twenty-sixth, eighteen hundred and fifty-one (which books of record were the books of record of Stephen Cooper, judge of the first instance of the district of Sonoma, and were deposited in said county recorder's office by said judge of first instance), are hereby legalized and declared to have the same force and effect as though the same were recorded in said county recorder's office subsequent to the passage of this act, and in accordance with the said "Act concerning county recorders," passed March twenty-sixth, eighteen hundred and fifty-one.

§ 2. The record of all deeds, mortgages and other instruments, recorded in said books of record, and certified copies thereof, made by the county recorder of said county under his official seal, shall be received in evidence in all the courts of record in this state, and shall in every respect have the same force and effect as other records and copies of records of said office, made since the passage of said "Act concerning county recorders," passed March twenty-sixth, eighteen hundred and fifty-one.

See next following statute.

SOLANO COUNTY—RECORDS.

Authorizing and empowering the county recorder of Solano County to transcribe certain records, and to legalize the same.

(Stats. 1859, 66, ch. LXXXV.)

§ 1. The county recorder of Solano County is hereby authorized and required, as soon as the same can conveniently be done, to transcribe into suitable and well-bound books all deeds, mortgages, title-bonds, and powers of attorney, contained in the following books of record, kept in the said recorder's office, namely: the books known as A, B, C, and D.

§ 2. The books of record, and each of the entries therein made, as directed by section one of this act, shall have the same force and effect as the original records transcribed therein may have had, and copies of any of the records or entries transcribed, as provided in this act, shall have the same force and effect as copies of the original records or entries may have had.

§ 3. For services rendered under this act the said county recorder of Solano County shall be allowed the same rate of compensation as is prescribed by section twenty-eight of an act entitled "An act to regulate fees in office" (approved April tenth, eighteen hundred and fifty-five), for like services; and the

same shall be paid out of the county treasury in the same manner as other demands against the said Solano County are paid.

§ 4. The original records shall be carefully preserved in the office of said county recorder, for further reference.

See tit. *Suscol Rancho*.

SOLDIERS AND MARINES.

See tits. *County Government; License; Sailors and Soldiers, Burial.*

SOLDIERS—EX-UNION.

See tits. *County Government; License Taxes; Sailors and Soldiers, Burial; Soldiers' Widows and Orphans; Public Work; Veterans' Home.*

SOLDIERS' HOME.

See tits. *Intoxicating Liquors; Soldiers' Widows, Orphans, etc.*

SOLDIERS' WIDOWS, ORPHANS, ETC.

To provide for the building and furnishing of the home for soldiers' widows and orphans and army nurses, and for the state to inquire into the management of such institution by a uniform rule proportioned to the number of inmates in said institution, for the management of the same, and for the support of indigent persons residing in the said home.

(Stats. 1889, 206, ch. CLXXIII; amended 1891, 428, ch. CCXXIV.)

§ 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty-five thousand (\$25,000) dollars for the building and furnishing of the Home for Soldiers' Widows and Orphans and Army Nurses in indigent circumstances.

§ 2. The said sum of money for the purpose in section one of this act provided, shall be expended in the manner and in the sums in this act hereinafter specified immediately after the completion of the main building of the home, and upon satisfactory evidence furnished the governor of the state that the board of directors of the Woman's Relief Corps Home Association have accepted the main building from the contractors, the controller of state shall, upon the order of the governor, issue his warrant for the sum of ten thousand (\$10,000) dollars in favor of the president and treasurer of the board of directors of the Woman's Relief Corps Home Association, and the state treasurer is hereby directed to pay the same.

§ 3. The said directors are authorized and directed to expend such sum or sums as may be from time to time appropriated for such purpose, for the support and maintenance of the widows, mothers, wives, and children of Union soldiers, sailors, and marines, and for ex-Union army nurses, in indigent circumstances, residing in the home in Santa Clara County, under the auspices of the Woman's Relief Corps Home Association, a corporation duly created and existing under the laws of this state, in the manner following, to wit: The sum of one hundred and fifty dollars per annum for each widow, mother, wife, child, or army nurse admitted to and residing in such home; provided,

the whole of said sum shall not be expended in any one year for such support and maintenance. [Amendment, Stats. 1891, 428.]

§ 4. The aid granted in section three of this act shall commence on the first day of the month after each such widow, mother, wife, child, or army nurse shall commence bona fide to reside in, and be supported in such home, and shall be paid by the state in semiannual instalments. [Amendment, Stats. 1891, 428.]

§ 5. First—It shall be the duty of such corporation to keep a book, in which shall be entered the date of admission, name, age, and place of birth of each widow, mother, wife, child, or army nurse, and also the military history, if it can be obtained, of the husband, father, or son of such widow, mother, wife, or child who is, or may hereafter be, admitted to such institution, and the estate or income, if any, to which she or it may be entitled.

Second—Said corporation shall also keep a book entitled "Monthly Accounts." In it shall be entered on the debtor side all moneys received from any and all sources, segregated under their proper heads, and on credit side all disbursements made, specifying for what purpose made, and the amounts entered in detail so disbursed, segregated under their proper heads, each entry to be made under its proper dates.

Third—A pay-roll shall be kept of the employees, and the amounts disbursed to each, and at what rate of wages, and for what length and kind of services.

Fourth—A book shall be kept, in which shall be entered in detail the amounts and dates of all payments from outside sources made to each widow, mother, wife, child or army nurse during her said residence, or to such association for her or its benefit.

Fifth—A transcript of such book and pay-roll, verified by the oath of the manager of such institution, or person in charge of the same, shall be made and forwarded to the state board of examiners at the time of making demand or presenting claims for state aid, conveying in accordance with section three of this act, covering the time for which such claim or demand for state aid is made; also, a list of all the inmates for whom such claim or demand for such aid is made.

Sixth—Such books and pay-roll shall be open also, at all times, to the inspection of the state board of examiners, or of any person authorized by it to examine the same, or of any committee of the legislature or clerk thereof, duly authorized so to do. [Amendment, Stats. 1891, 428.]

§ 6. The state board of examiners are authorized in behalf of the state, at any time, to inquire, either in person or by authorized agent, into the management of such institution; and upon refusal, after due demand, to permit such inquiry, such institution shall not thereafter receive any aid under this act. All necessary expenses incurred in making such inquiry shall be audited and allowed by the state board of examiners out of the appropriations of the state for the aid of such institutions.

§ 7. Every claim for aid under this act shall be presented to and audited and allowed by the state board of examiners. Such claims shall contain:

1. The name and location of the institution making the claim.

2. The name of the person or persons having control thereof.
3. The number and class of inmates.
4. The date of admission and age of each.
5. The amount of pension or other income the institution is receiving from each inmate.

Such claim and the statements therein contained shall be verified by the oath of the superintendent or other person having charge of the institution, and the board of examiners may, in their discretion, require the production of the books of such institution in support of such claim.

§ 8. If such claim be audited and allowed, in whole or in part, by said board, it shall be the duty of the controller to draw his warrant for the amount thereof in favor of the president and treasurer of said association, and it shall be the duty of the state treasurer to pay the same on due presentation.

§ 9. No person for whose specific support there is paid said institution the sum of twelve dollars and fifty cents or more per month, shall be entitled to any aid under this act. But if such sum be less than twelve dollars and fifty cents per month, aid shall be granted for such sum only as is necessary to make a full amount of support, including the state aid, twelve dollars and fifty cents per month.

§ 10. Such claims or demands for state aid shall be presented to and acted on by said board, and paid by said treasurer semiannually, commencing from the first day of the month after said home shall be open to and receive its inmates, the first of said claims to be so presented at the expiration of six months from said last-mentioned time, and each subsequent claim at regular intervals of six months thereafter.

§ 11. No money appropriated by the state under this act shall be expended either in improvements or any erection of new buildings for such institution, except as provided in sections one and two of this act.

§ 12. No person shall be entitled to receive any aid under this act, unless she has been admitted to and kept in said home by reason of her services as army nurse, or by reason of the military services of her husband, father, or son, nor unless she has been continuously a resident of this state for two years next prior to her admission to said home, nor unless she would be entitled to receive such aid by virtue of the laws and constitution of this state. Before allowing a claim in behalf of any inmate of said home, the board of examiners shall require proof of such facts. [Amendment, Stats. 1891, 428.]

People vs. Royce, 106 Cal. 173, 185, 37 Pac. Rep. 630, 39 Id. 524; *Lewis vs. Colgan*, 115 Cal. 529, 535, 47 Pac. Rep. 357.

SONOMA CITY—PUEBLO, TOWN.

To empower and authorize the commissioners of the former pueblo or city of Sonoma to sell and convey a portion of the lands known as the pueblo grant of Sonoma.

(Stats. 1871-2, 239, ch. CC.)

§ 1. Jacob R. Snyder, George L. Wratten, and John Walton, the commissioners of and for the pueblo or city of Sonoma, in the county of Sonoma,

shall, within ninety days after this act goes into effect, call an election to be held within the exterior limits of said pueblo lands, as laid down on O'Farrel's map of the town or city of Sonoma, and at said election shall submit to the legal voters residing on the land described on said map whether the portion of said lands known on said map and in the town of Sonoma as the "Plaza," shall for the consideration of ten dollars be sold and conveyed to and given in charge to the Society of California Pioneers for the district composed of Sonoma, Napa, Marin, Mendocino, and Lake counties, to be held and used during the existence of said society for the purpose of erecting and maintaining halls and offices thereon for the use of said society, its officers, and members, and for the purpose of protecting and beautifying said grounds by keeping a good substantial fence around the same, and planting shade and ornamental trees, and laying off and improving walks therein for a public promenade.

§ 2. The said commissioners shall, at least ten days next before such election, give public notice of the time when and place where said election will be held, by posting in at least three public places in said pueblo a notice that such a proposition will be submitted to the qualified electors within said limits for their approval or rejection, and shall appoint three qualified electors to act, one as inspector and the other two as judges of said election, who shall, before entering upon the discharge of their duties, be duly sworn by an officer authorized to administer oaths to discharge the duties of inspector and judges faithfully and impartially to the best of their knowledge and ability according to law; and said inspector and judges shall appoint the clerks for said election.

§ 3. The manner of voting and all the proceedings connected with said election, and the ascertaining and declaring the result shall be the same as at the general election for state and county officers, except as in this act particularly and specially provided.

§ 4. The ballots cast at said election shall have written or printed thereon "Sell and convey Plaza to Pioneers," and every ballot cast at said election in favor of said proposition shall have the word "Yes" written or printed thereon, and every ballot cast at said election against said proposition shall have the word "No" written or printed thereon.

§ 5. The result of said election shall be certified to said commissioners by the inspector, judges, and clerks of said election, and if at said election a greater number of electors voting on said proposition have voted "No" than have voted "Yes," the said proposition shall be by said commissioners declared rejected. But if at said election a greater number of electors voting on said proposition have voted "Yes" than have voted "No," then said proposition shall be deemed approved, and by said commissioners shall be declared and approved, and a record of the fact of such approval shall be entered upon the records of the proceedings of said commissioners.

§ 6. Said commissioners shall, as soon as practicable after the approval of said proposition, sell to the Society of California Pioneers named in section two of this act, for the consideration of ten dollars, and convey in trust for said society to the parties authorized by the by-laws of said society to hold

real estate in trust for it, the said tract of land known in said town and ex-city of Sonoma, as the principal plaza and laid down and designated on O'Farrel's map of said town of Sonoma as the "Plaza."

§ 7. As a part of the terms and conditions of the sale provided for in this act, it is understood that said Society of California Pioneers shall perpetually keep a good substantial fence around and inclosing said plaza, with gates or stiles therein, and shall, within five years after said plaza is conveyed to it, expend at least five thousand dollars on said plaza, in erecting buildings thereon and otherwise beautifying said grounds, and that said society shall not sell or convey said lands or any part thereof; and in case said society fails to comply with said conditions and requirements, or violate said restrictions, then the title to said lands, as well as all improvements thereon, shall revert to and vest in the town of Sonoma; provided, that if at any time the said society abandons the plaza, or in any manner fails to comply with the terms herein conveyed, then this act shall be to all intents and purposes void.

§ 8. The election herein provided for is hereby exempted from the provisions of the registry act.

§ 9. Any person who shall wilfully and intentionally injure or destroy, or cause to be injured or destroyed, any fence, gate, or stile, or any part thereof now surrounding and inclosing said plaza, or any building, fence, gate, or stile that may hereafter be erected thereon or around said plaza, or shall injure, break, cut, destroy, or cause to be injured or destroyed, any shade or ornamental tree or shrub now planted or that may hereafter be planted thereon, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine in any sum not exceeding five hundred dollars.

§ 10. All acts and parts of acts, in so far as they conflict with the provisions of this act, are hereby repealed.

See next following statute, and see tit. **Municipal Corporations.**

SONOMA TOWN.

To confirm and legalize the acts and proceedings of any and all of the mayors, common councils, alcaldes, justices of the peace, of the pueblo of Sonoma, state of California.

(Stats. 1869-70, 413, ch. CCCXIII.)

§ 1. That all the ordinances, resolutions, written minutes and proceedings of the mayors and common council, alcaldes, justices of the peace of the city or town of Sonoma, which relate to the sale or disposition of lands and the sales of lands made by them within the boundaries of the pueblo of Sonoma, as confirmed by the board of land commissioners of the United States, and which confirmation was filed in the office of said board, January twenty-second, eighteen hundred and fifty-six, and is now on file in the office of the surveyor-general of the United States for California, at San Francisco; also, as described in the final decree by the United States district court, at San Francisco, made November second, eighteen hundred and sixty-four, are hereby ratified, confirmed and legalized.

§ 2. The patent issued or grant made by the United States to the pueblo, or her representatives, shall inure to the several uses, benefits and behoof of the said parties holding title under any grant or sale made by any mayor, common

council, alcaldes, justice of the peace of the city or town of Sonoma, their heirs and assigns, as fully and effectually, to all intents and purposes, as if it were issued or made to them directly, individually and by name.

§ 3. All acts and parts of acts in so far as they conflict with the provisions of this act are hereby repealed.

SONOMA COUNTY—FENCES.

It is believed that the act (Stats. 1877-8, 692, ch. CCCXLVII) relating to fences and lines of the county has been superseded by the codes and the statutes concerning lawful fences.

SONOMA COUNTY—RECORDS.

Authorizing and empowering the county recorder of Sonoma County to transcribe certain records, and to legalize the same.

(Stats. 1860, 109, ch. CXLI.)

§ 1. The county recorder of Sonoma County, is hereby authorized and required, as soon as the same can conveniently be done, to transcribe into suitable and well bound books, all instruments contained in the following books of record, kept in the recorder's office, namely: The books known as A, B, BB, C, D, E, F, G, H, K, M, also, book A of Releases, and the old book of Brands and Marks.

§ 2. The books of record, and each of the entries therein made, as directed by section one of this act, shall have the same force and effect as the original records transcribed therein may have had, and copies of any of the records or entries transcribed, as provided in this act, shall have the same force and effect as copies of the original records and entries may have had.

§ 3. For services rendered under this act, the said county recorder of Sonoma County, shall be allowed the sum of ten cents for each and every folio; and the same shall be paid out of the county treasury, in the same manner as other demands against the said Sonoma County are paid.

§ 4. The original records shall be carefully preserved in the office of said county recorder, for future reference.

See next two following statutes.

SONOMA COUNTY—RECORDS.

To provide for the transcribing of the records of surveys in Sonoma County.

(Stats. 1862, 53, ch. LXIII.)

§ 1. The board of supervisors of Sonoma County is hereby authorized to contract for the transcribing and indexing of the old records of surveys of Sonoma County, entered previous to the first day of January, anno Domini eighteen hundred and sixty-two; provided, they shall not allow more than ten cents per folio for the writing; and for copying the maps, the same compensation as allowed to county recorder for similar services.

§ 2. After the completion of the services authorized by this act, to the satisfaction of the board of supervisors, the transcript shall have the same legal effect as the original records; and the board of supervisors shall draw their order on the county treasurer for the sum allowed the contractor, and

the county treasurer shall pay the same out of any moneys in the county general fund not otherwise appropriated.

§ 3. This act shall take effect from and after its passage.

SONOMA COUNTY—RECORDS.

To provide for the translation of foreign records in the county of Sonoma, and to make such translations evidence of their contents.

(Stats. 1869-70, 582, ch. CCCCXXII.)

§ 1. The county recorder of the county of Sonoma is hereby authorized and required, whenever the board of supervisors shall command him so to do, to cause to be translated into the English language all the records of said county made in any foreign language, and for that purpose is hereby authorized and required to employ some competent translator, resident of the county, at such compensation as shall be just and reasonable, to be agreed upon by said recorder and translator, subject to the approval of the board of supervisors of said county.

§ 2. Said county recorder shall provide a suitable record book for all such instruments and records, in which shall be transcribed the original record, to be followed by translation thereof; and to have good, direct and reverse indices thereto, made and prepared by said translator; for the making of which said records and indices, the board aforesaid shall pay said translator such reasonable compensation as shall be agreed upon between said translator and county recorder, subject to approval by said board of supervisors.

§ 3. Said translator shall affix to each book of translated records so made an affidavit, to be sworn to before the county recorder, who is hereby authorized to administer the oath, that the translations contained in said book are true, correct, and full, as the same appears of record in such foreign language.

§ 4. The records of said translation shall be held to be evidence of the instruments so recorded, and the records themselves, and certified copies thereof, shall be received in evidence, in all the courts of this state, of the contents of the instruments so purported to be translated; but said translations shall not in any manner determine or affect any open question of the due execution of the original instruments.

§ 5. The compensation for all services under this act, and all expenses for books and stationery, shall be paid by the county treasurer, from time to time, under the order of the board of supervisors, who shall audit and allow the same, as said work progresses.

§ 6. This act to take effect and be in force from and after its passage.

SONOMA COUNTY.

See tits. **Fences; Hunting on Private Property; Poultry Experiment Station; Sheep Herding; Sonoma City; Pueblo, Town.**

SONOMA CREEK.

See tit. **Fish and Game.**

SOUTHERN CALIFORNIA RAILWAY COMPANY.

See tit. **Railroads.**

SOUTHERN PACIFIC RAILROAD COMPANY.

To aid in giving effect to an act of Congress relating to the Southern Pacific Railroad Company.

(Stats. 1869-70, 883, ch. DLXXIX.)

§ 1. Whereas, by the provisions of a certain act of Congress of the United States of America, entitled an act granting lands to aid in the construction of a railroad and telegraph line from San Francisco to the eastern line of the state of California, approved July twenty-seventh, eighteen hundred and sixty-six, certain grants were made to, and certain rights, privileges, powers and authority were vested in and conferred upon the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the state of California; therefore, to enable the said company to more fully and completely comply with and perform the requirements, provisions and conditions of the said act of Congress, and all other acts of Congress now in force or which may hereafter be enacted, the state of California hereby consents to said act; and the said company, its successors and assigns, are hereby authorized and empowered to change the line of its railroad so as to reach the eastern boundary line of the state of California by such route as the company shall determine to be the most practicable, and to file new and amendatory articles of association; and the right, power and privilege is [are] hereby granted to, conferred upon and vested in them, to construct, maintain, and operate, by steam or other power, the said railroad and telegraph line mentioned in said acts of Congress, hereby confirming to and vesting in the said company, its successors and assigns, all the rights, privileges, franchises, power and authority conferred upon, granted to or vested in said company by the said acts of Congress and any act of Congress which may be hereafter enacted.

§ 2. This act shall take effect and be in force from and after its passage.

SPANISH TITLES.

See tits. Land Claims; Lands.

SQUIRRELS—GOPHERS.

Various acts on the subject of destroying these animals have been enacted. Some are specifically repealed, and it is believed that

all others are superseded by § 25 of the County Government Act.
See tit. Animals.

STALLIONS—REGULATIONS FOR KEEPING.

The statute of 1871-2, 63, has been carried into the Penal Code by Stats. 1905, 678, ch. DXVIII. See KERR'S CYC. PEN. CODE § 597g.

STANFORD UNIVERSITY.

See tit. Leland Stanford Junior University.

STATE AGRICULTURAL SOCIETY.

To provide for the management and control of the State Agricultural Society of the state.

(Stats. 1880, 49, ch. LX.)

§ 1. The State Agricultural Society is hereby declared to be a state institution.

§ 2. Within ten days after the passage of this act, the governor shall appoint

twelve resident citizens of the state who shall, when organized, constitute a state board of agriculture, who shall, except as hereinafter provided, hold office for the term of four years, and until their successors are appointed and qualified. Vacancies occurring from any cause in the board shall be filled by appointment of the governor for the unexpired term of the office vacated.

§ 3. Within ten days after their appointment, the persons so appointed shall qualify, as required by the constitution, and shall meet at the office of the State Agricultural Society and organize by the election of one of their number as president of the board and said society, who shall hold said office of president for the term of one year, and until his successor is elected and qualified. The board shall also elect a secretary and treasurer, not of their number, who shall each hold office at the discretion of the board.

§ 4. At the same meeting the members of the board shall, by lot or otherwise, classify themselves into four classes of three members each. The terms of office of the first class shall expire at the end of the first fiscal year; of the second class, of the second year; of the third class, of the third year; of the fourth class, at the end of the full term of four years. The fiscal year shall be from the first of February to the first of February.

§ 5. The state board of agriculture shall be charged with the exclusive management and control of the State Agricultural Society as a state institution; shall have possession and care of its property, and be intrusted with the direction of its entire business and financial affairs. They shall define the duties of the secretary and treasurer, fix their bonds and compensation, and shall have power to make all necessary changes in the constitution and rules of the society; to adapt the same to the provisions of this act, and to the management of the society, its meetings, and exhibitions. They shall provide for an annual fair or exhibition by the society of all the industries and industrial products of the state, at the city of Sacramento; provided, that in no event shall the state be liable for any premium awarded or debt created by said board of agriculture.

§ 6. The board shall have power to appoint all necessary marshals and police to keep order and preserve peace at the annual fairs of the society, and the officers so appointed shall be vested with the same authority for the preservation of order and peace, on the grounds and in the buildings of the society, that executive peace officers are vested with by law.

§ 7. Said board shall use all suitable means to collect and disseminate all kinds of information calculated to educate and benefit the industrial classes, develop the resources, and advance the material interests of the state, and shall, on or before the first day of February of each year, report to the governor a full and detailed account of their transactions, statistics, and information gained, and also a full financial statement of all funds received and disbursed. They shall also make such suggestions and recommendations as experience and good policy may dictate for the improvement and advancement of the agricultural and kindred industries.

§ 8. The superintendent of state printing shall, each year, print and bind in cloth four thousand volumes of said transactions, and deliver the same to said board of agriculture for distribution and exchange. He shall also do

such job printing as said board may require to carry out the provisions of this act.

§ 9. The directors or boards of managers of each county and district agricultural society or association, and of each county, district, or state horticultural and stockbreeding association or society, organized and acting under the laws of this state, shall report annually, on or before the first day of April, to the state board of agriculture, the name and post-office address of each officer of such society or association; and on or before the first day of December shall report to said board of agriculture the transactions of said society, including the premiums offered, the list of stock and articles exhibited, and the premiums paid; the amount of receipts and expenditures for the year, the new industries inaugurated, and any and all facts and statistics showing the development and extent of the industries, products, and resources of the county or district embraced within the management of such society or association; provided, that the provisions of this act shall not apply to any board of commissioners or other body organized under the laws of this state the object of which is to promote vinicultural industries, unless such board or body shall voluntarily request the privilege of making such reports as are called for by this act, in which case such board or body shall enjoy equal privileges as are accorded to other institutions devoted to agriculture.

§ 10. To facilitate such reports, the state board of agriculture shall have prepared, and shall furnish such societies with necessary schedules and blanks for such reports, and said state board shall include such reports from societies and associations, or so much thereof as they may deem advisable, in their report to the governor.

§ 11. When said state board of agriculture shall have been organized and classified as provided herein, the secretary of the board shall report such organization and classification to the governor. He shall also report any vacancy that may occur in said board at any time.

§ 12. All laws and parts of laws in conflict with this act are hereby repealed.

Melvin vs. State, 121 Cal. 16, 19, 53 Pac. Rep. 416; People ex rel. Finigan vs. Perkins, 85 Cal. 509, 26 Pac. Rep. 245.

The Agricultural Society was first organized under Stats. 1854, 56, ch. LI, which

was amended by 1858, 80, ch. XCVIII, and by 1863, 50, ch. L. A supplemental act was also passed (1863, 49, ch. XLIX; also 1863, 259, ch. CXCIX).

See next following statute.

STATE AGRICULTURAL SOCIETY.

An act making an appropriation for the erection and construction of buildings and equipping the fair grounds owned by or under the jurisdiction and control of the California State Agricultural Society, for exposition and state fair purposes and for the payment of other expenses incidental and relating thereto, prohibiting gambling of all kinds upon the grounds and premises under the control of said California State Agricultural Society, and providing a penalty for gambling or gaming thereon, and providing that certain moneys now in the state treasury may be used in connection with this appropriation for such purposes.

(Stats. 1905, 793, ch. DXCV.)

§ 1. The sum of sixty thousand dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated, to be paid to the board of directors of the California State Agricultural Society and to be expended on, in and about the fair grounds owned by or under the jurisdiction and control of the California State Agricultural Society for the purpose of equipping the said fair grounds for exposition and state fair uses for the purposes hereinafter specified: For the construction of a swine exhibit building; the construction of a sheep building; the construction of cattle exhibit barns; the construction of exhibit buildings for mules, horses and ponies; the construction of a poultry building; the construction of a dairy building; the construction of carriage sheds; the construction of a main fence around the grounds; the purchase of decomposed granite for roads; the grading of roads; the grading and filling around barns; the installation of a water system and piping the grounds; the construction of a steel tower and of a barrel tank; the installation of a sewerage system; the construction of an implement exhibit building; painting such structures; necessary fees of architects and superintendents, foremen and workmen and for the payment of all other expenses appurtenant to the carrying out of this act. The state controller is hereby ordered and directed to draw the necessary warrant or warrants therefor, and the state treasurer is hereby directed to pay the same. Provided that, if the appropriation made by this act shall be insufficient to provide for the erection and construction of all the buildings hereinbefore enumerated, the board of directors of the said California State Agricultural Society, in their discretion, may erect and construct such buildings named herein as in their discretion can be erected and constructed by the appropriations provided for by this act.

§ 2. No contract for lumber, iron, machinery or material to be used for the purposes mentioned in section one of this act shall be entered into by the California State Agricultural Society until publication shall be made in at least three daily newspapers, two of said newspapers to be published in the city and county of San Francisco, and one in the city of Sacramento, for at least twenty days prior thereto, inviting bids for the supplying of such material. Such bids may be in the form of sealed proposals, shall be opened at a meeting of the directors of such society, and the contract shall be awarded to the lowest responsible bidder for supplying of such material.

§ 3. All bids for material and for the construction and equipment of said works shall be audited by the said board of directors of the California State Agricultural Society and approved by the state board of examiners before being paid.

§ 4. All plans, descriptions, bills of material, specifications and estimates necessary, requisite, proper or convenient for any of the purposes aforesaid, shall receive the sanction of a majority of the directors of the California State Agricultural Society and of the state board of examiners. The directors of the California State Agricultural Society shall cause an entry to be made in their minutes that such plans, descriptions, bills of material, specifications and estimates have been approved. It shall not be necessary to obtain the approval or sanction of any other board, officer or person to said plans.

§ 5. In addition to the appropriation made by this act, the board of direc-

tors of the said California State Agricultural Society are hereby authorized, and empowered to use, for the purpose of improving the said fair grounds, any moneys now in the state treasury of the state of California consisting of the residue remaining after the sale by the California State Agricultural Society of its real estate, or any portion thereof, conformably to the terms and provisions of an act entitled "An act to authorize state agricultural societies under the control of the state, to sell property held by them in fee, or held by trustees for their use, or in which they may have any interest, to prescribe a course of procedure therefor, to indemnify purchasers at such sale, and to direct how the proceeds shall be applied," approved February twenty-fifth, eighteen hundred and ninety-seven, and "any other act amendatory thereof or supplemental thereto, and paid into said state treasury pursuant to the terms of said act or acts. The said residue shall be paid to the directors of the California State Agricultural Society in the same manner as in section one of this act provided, and the state controller is hereby ordered and directed to draw the necessary warrants therefor, and the state treasurer is hereby directed to pay the same.

§ 6. The board of directors, officers and employees of the California State Agricultural Society are hereby prohibited from permitting any person or persons, or any corporation, within the grounds or premises owned by or under the control of the said California State Agricultural Society, to sell, or offer for sale, buy, or offer to buy, issue, or offer to issue, or in any manner dispose of, purchase, or acquire any interest in any pool, or in any pool ticket, certificate, writing, or other evidence of payment, acceptance or deposit of money, or other thing of value, staked upon the result of any running, pacing or trotting race or contest between horses, mares or geldings, or to make any bet or hazard on the result of such race or contest, or to act as a stakeholder of any bet or hazard laid on the result of any such race or contest, or to receive or pay over any money or article or thing of value, the ownership or right to possession of which has been, is, or is to be determined by any such race or contest, or to permit any gambling or gaming prohibited by section three hundred and thirty of the Penal Code of the state of California. And every person, officer and employee of said board of directors of the California State Agricultural Society permitting any of the acts herein prohibited, and every person who shall, within the confines of the land and premises of the said California State Agricultural Society, sell, or offer to sell, buy, or offer to buy, issue, or offer to issue, or in any manner dispose of, purchase or acquire any interest in any pool, or in any pool ticket, certificate, writing, or other evidence of payment, acceptance or deposit of money, or other thing of value, staked upon the result of any running, pacing or trotting race or contest between horses, mares or geldings, or to make any bet or hazard on the result of such race or contest, or to act as a stakeholder of any bet or hazard laid on the result of any such race or contest, or receive or pay over any money or article or thing of value, the ownership or right to possession of which has been, is, or is to be determined by any such race or contest, or to permit any gambling or gaming prohibited by section three hundred and thirty of the Penal Code of the state of California, is guilty of a misdemeanor and shall be punishable by a fine of not less than one hun-

dred dollars nor more than five hundred dollars, or by imprisonment in the county jail not exceeding six months.

§ 7. Of the sum of money appropriated by section one of this act, the sum of sixty thousand dollars shall not be payable to the said directors of the California State Agricultural Society, and the appropriation therefor shall not be available until the first day of July, nineteen hundred and five.

§ 8. All acts and parts of acts, in conflict with this act, are hereby repealed.

§ 9. This act shall take effect and be in force from and after its passage.

STATE ANALYST—MINERALS, WATERS, ETC.

To provide for analyzing the minerals, mineral waters, and other liquids, and the medicinal plants of the state of California, and of foods and drugs, to prevent the adulteration of the same.

(Stats. 1885, 43, ch. XXXVIII.)

§ 1. The governor of the state of California shall appoint one of the professors of the State University of California, of sufficient competence, knowledge, skill, and experience, as state analyst, whose duty it shall be to analyze all articles of food, drugs, medicines, medicinal plants, minerals, and mineral waters, and other liquids or solids which shall be manufactured, sold, or used within this state, when submitted to him, as hereinafter provided.

§ 2. The state board of health and vital statistics, or medical officers of health of any city, town, or of any city and county, or county, may, at the cost of their respective boards or corporations, purchase a sample of any food, drugs, medicines, medicinal plants, mineral waters, or other liquids offered for sale in any town, village, or city in this state, and submit the same to the state analyst as hereinafter provided; and said analyst shall, upon receiving such article duly submitted to him, forthwith analyze the same, and give a certified certificate to the secretary of the state board of health submitting the same, wherein he shall fully specify the result of the analysis; and the certificate of the state analyst shall be held in all the courts of this state as prima facie evidence of the properties of the articles analyzed by him.

§ 3. Any person desiring an analysis of any food, drug, medicine, medicinal plant, soil, mineral water, or other liquid, shall submit the same to the secretary of the state board of health, together with a written statement of the circumstances under which he procured the article to be analyzed, which statement must, if required by him, be verified by oath, and it shall be the duty of the secretary of the state board of health to transmit the same to the state analyst, the expenses thereof to be defrayed by the said board.

§ 4. The state analyst shall report to the state board of health the number of all the articles analyzed, and shall specify the results thereof, to said board annually, with full statement of all the articles analyzed, and by whom submitted.

§ 5. The state board of health may submit to the state analyst any samples of food, drugs, medicines, medicinal plants, mineral waters, or other liquids, for analysis, as hereinbefore provided.

§ 6. It shall be competent for the mineralogist of the state of California to submit to the state analyst any minerals of which he desires an analysis to be made; provided, that the cost of the same shall be defrayed by the mineralogical bureau.

§ 7. The board of state viticultural commissioners shall have the same privileges as are provided for the state board of health under this act with respect to samples of wines and grape spirits, and of all liquids and compounds in imitation thereof, and any person or persons desiring analyses of such products shall submit the same to the secretary of the said board of state viticultural commissioners, and the same shall be transmitted to the state analyst, in the manner prescribed in section three of this act. The analyses shall be made, and the certificates of the state analyst shall be forwarded to the secretary of the said board of state viticultural commissioners, and shall have the same force and effect as provided for in section two of this act, with respect to analyses made for the state board of health.

STATE ARCHIVES.

See tit. **Secretary of State.**

STATE ASYLUMS.

See tits. **State Hospitals; Insane.**

STATE BOARD OF AGRICULTURE.

See tit. **State Agricultural Society.**

STATE BOARD OF EXAMINERS.

To provide for the purchase of certain supplies for state officers and members of the legislature.

(Stats. 1875-6, 314, ch. CCXLV.)

§ 1. The state board of examiners is hereby constituted ex officio a furnishing board, with the powers and duties hereinafter specified.

§ 2. It shall be the duty of said board, as often as it shall become necessary, to advertise for twenty days in two daily newspapers published in the city of San Francisco, and one daily newspaper published in the city of Sacramento, for sealed proposals to furnish stationery, blank-books, material for lights, fuel, and such other articles necessary for the use of said state and legislative officers as are entitled thereto, or any of them; and said board shall specify in said advertisement the amount and kinds of each article desired, samples or minute descriptions of which shall accompany and be deposited, with the sealed proposals for furnishing the same, in the office of the secretary of state; and all proposals received as aforesaid shall be opened and compared by said board, any two of whom shall constitute a quorum, at the governor's office, at twelve o'clock meridian of the day specified in the said advertisement; and the said board shall then and there award the contract for furnishing said supplies, or any of them, to the lowest bidder, whose sealed bid shall be accompanied by a bond with two or more sureties, in the sum of \$———, the sum to be not less than twice the amount of the value of the articles to be supplied, payable to the people of the state of Cali-

fornia, conditioned that if the bidder shall receive the award of said contract he will, in ten days thereafter, deliver the supplies or articles for which he has been awarded the contract; provided, that in their said advertisement said board may classify said supplies and articles, and may receive bids and award contracts for such separate articles or class of supplies as they shall deem the lowest and best; provided further, that said board may require any class or articles of said supplies to be delivered in instalments, and pay for on delivery; provided further, that any and all bids which shall be deemed too high by said board, may be declined, in which case said board shall again advertise for sealed proposals to furnish the classes or articles of supply so declined, and so on for the same cause, as often as it shall occur; and provided further, that in such case, said board may purchase any articles or supplies for which bids have been rejected as aforesaid, in open market, and in amounts, sufficient for immediate necessities, but at prices not exceeding the lowest prices in the bids rejected.

§ 3. It shall be the duty of the secretary of state, immediately after the passage of this act, to take a full and complete inventory of all stationery, blank-books, and other articles and supplies aforesaid, then on hand, and enter the same in a set of books to be kept for that purpose, making a separate account for each class of articles; and in like manner he shall enter in said books a detailed and classified account of all purchases of articles and supplies authorized by this act, showing the amount and cost of each article and class of supplies purchased, the amount and cost of each class issued, amount and cost of each article and class issued to each state officer and member of the legislature, and amount and cost of each article and class on hand. He shall issue the supplies aforesaid only upon the requisition of the proper officer, and shall take a receipt for the same upon delivery, which requisition and receipt shall be filed and preserved in his office.

§ 4. It shall be the duty of said board, at the end of each fiscal year, and at such other times as they shall deem necessary, to cause an inventory to be taken of all the articles and classes of said supplies on hand and contracted for, and to make an examination of the amounts and vouchers appertaining to the same.

§ 5. It shall be the duty of said board, at least one month previous to the assembling of each legislature, to advertise, in accordance with section two of this act, for a supply of stationery, fuel, and such other articles as shall be sufficient for the use of the state officers and members of the legislature, or necessary for the public service, and at the commencement of each session said board shall report to the legislature a full account of their receipts and expenditures, and stock of supplies on hand.

§ 6. The actual expenses incurred by said board in executing the powers and discharging the duties prescribed and imposed in this act, when certified by them, shall be audited by the controller, and paid by the treasurer of said state out of any money which shall have been appropriated for that purpose; provided, nothing in this act shall be construed as allowing salary or compensation to said furnishing board for any service performed as such board.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

The board of examiners had its inception under the Act of 1858 (Stats. 1858, 212). Since the codes, it is governed chiefly by §§ 470-472, 553, 654-685 of the Political Code.—See *Ingram vs. Colgan*, 106 Cal. 113-123, 46 Am. St. Rep. 221, 38 Pac. Rep. 315, 39 Id. 437, 28 L. R. A. 187.

An Act of 1871-2 (Stats. 1871-2, 54), directing this board to invest moneys derived from sales of state school lands, was repealed by Stats. 1883, 25, but the same subject-matter is now covered by §§ 680, 681, Political Code, as amended in 1883 (Stats. 1883, 26) and 1903 (Stats. 1903, 42, 406).

Duties are imposed upon this board under

various other statutes,—as under §§ 4, 5, and 6 of Stats. 1880, 48, relating to orphans, etc.; § 215 of the County Government Act of 1897, sheriff's charges for conveying prisoners and insane persons; § 5 of Act of 1871-2, 118, cancelation of uncalled-for state warrants; and under the general appropriation acts of recent years.

State debt.—Creation of debts in excess of appropriations; and see next two following statutes.

Under the Stats. 1880, 13, making an appropriation for orphans, half-orphans, etc., and duties of board of examiners.—See *County San Luis Obispo vs. Gage*, 139 Cal. 398, 400, 73 Pac. Rep. 174.

STATE BOARD OF EXAMINERS—FORESTS.

To appropriate one hundred thousand dollars from any moneys hereafter collected and received by the state of California from the United States in payment of the claims of this state arising out of the Indian and Civil wars, to be expended in the acquisition, preservation, and protection of the forests of this state; creating the state board of examiners a commission to carry this act into effect and for the disbursement of said moneys, and creating the "State Forestry Fund."

(Stats. 1905, 183, ch. CLXXXVII.)

§ 1. From the moneys hereafter collected and received by the state of California from the United States in payment of the claims of this state arising out of the Indian and Civil wars, there is hereby appropriated the sum [of] one hundred thousand dollars which shall be set aside and covered into the "State Forestry Fund," which fund is hereby created, and which moneys shall be devoted by the state of California for the acquisition, preservation and protection of the forests within the state, and to the interests of scientific forestry generally within the state.

§ 2. The state board of examiners shall constitute a commission for the carrying into effect the provisions of this act, and is hereby authorized to expend such moneys in such manner and for such purposes within the purview of this act as it shall deem advisable, and for that purpose shall audit all claims and demands arising hereunder, and the controller is hereby directed to draw his warrants for the amounts as the same may become due and payable and the treasurer of the state is directed to pay such warrants.

§ 3. This act shall take effect and be in force from and after its passage.

STATE BOARD OF EXAMINERS.

Prescribing certain duties to be performed by the state controller, state treasurer, and state board of examiners.

(Stats. 1871-2, 118, ch. CXVII.)

§ 1. The state controller shall furnish to the state treasurer, on the tenth, twentieth, and last days of each month, and when either of these days falls upon a day on which the state controller is not required to keep his office open for the transaction of business, then upon the day immediately preceding the days herein mentioned, with a report of all warrants drawn by him upon

the treasurer since the date of his last report. Such report shall show the number, date, and amount of each warrant, to whom issued, and the fund out of which it is payable. From the report so furnished by the controller, the state treasurer shall make a register of warrants, and shall pay all warrants in the order in which they are drawn by the controller.

§ 2. Upon the last day of each month, except when such last day falls upon a day on which the state treasurer is not required by law to keep his office open for the transaction of business, then upon the day immediately preceding such last day, the state treasurer shall furnish the state controller with a list of all warrants paid by him since the date on which his last list was furnished. Such list shall contain the number, date, and amount of each warrant, and the fund out of which the same was paid.

§ 3. Immediately after the passage of this act, it shall be the duty of the state controller and state treasurer, under the supervision of the governor, to ascertain the numbers, dates, and amounts of the several warrants drawn by the controller, and then unpaid by the treasurer, and to adjust the balances in the several funds of the state treasurer upon the books of the controller and treasurer in accordance with the sums found to the credit of each on the books of the controller, and the warrants found to be outstanding and not paid by the treasurer.

§ 4. When the balances in the several funds of the state treasury shall be adjusted as provided for in the next preceding section, the state board of examiners shall count the money in the state treasury, and compare the amount with the amount found to be in all the funds of the state treasury by the books of the state controller, and upon the first business day of each month thereafter, the state controller shall furnish the state board of examiners with a statement of the amount of money in each fund of the state treasury, and the total amount as the same appears upon the books of his office, together with a list of warrants issued by him but not paid by the state treasurer, and for the payment of which there is money in the state treasury. Upon the receipt of such statement from the controller, the state board of examiners shall proceed to count the money in the state treasury, and compare the amount with the amount named in the statement of the controller.

§ 5. Whenever any warrant issued by the state controller shall remain in his office uncalled for by the owner thereof for the period of one year after such warrant has become payable, it shall be the duty of the controller and treasurer, in the presence of the state board of examiners, to cancel the same; and whenever any warrant, delivered to the owner thereof by the controller, but not presented to the state treasurer for payment for a period of one year after such warrant has become payable, said warrant shall be deemed to be canceled, and the treasurer shall in the presence of the controller and state board of examiners, write the word "Canceled" opposite the entry of such warrant in his registry of warrants provided for in the first section of this act. The word "Canceled" shall also be written by the state controller opposite the entry in the warrant register in his office of all warrants required to be canceled by this act. The amounts of all warrants canceled under the provisions of this act shall revert to the fund in the state treasury against which said warrants were drawn, and shall be entered upon the books of the con-

troller to the credit of such fund, in the same manner as other moneys paid into the state treasury.

§ 6. The controller and treasurer shall each keep a register of warrants canceled under this act, in which shall be entered the number, date, and amount of the warrant, the name of the person in whose favor it was drawn, the fund out of which it was payable, and the date of cancelation. Whenever the owner of any warrant canceled under the provisions of this act demands such warrant from the controller, it shall be the duty of the controller to issue a new warrant for the same amount, in the name of the same person, and payable out of the same fund as the warrant canceled; and in case where a warrant issued by the controller, but not paid by the treasurer, has been canceled, and the owner or holder thereof presents the same for payment, it shall be the duty of the state controller to draw a new warrant therefor, in the name of the same person, for the same amount, and payable out of the same fund as the original warrant, and such original warrant shall thereupon be canceled by him and retained in his office as his voucher for issuing such new warrant. In all cases where a warrant shall be issued in lieu of one canceled, the word "Duplicate" shall be plainly written or printed across the face thereof, in red ink, by the controller, and the issue thereof noted on the registry of canceled warrants kept in his office, and when any such duplicate warrant is paid by the state treasurer, he shall note the payment thereof on the registry of canceled warrants kept in his office.

§ 7. Whenever the interest coupons attached to any registered bond of this state issued under either of the following named acts, to wit: An act to provide for paying certain equitable claims against the state of California, and to contract a funded debt for that purpose, approved April twenty-eighth, eighteen hundred and fifty-seven; an act to amend an act entitled, an act to provide for paying certain equitable claims against the state of California, and to contract a funded debt for that purpose, approved April twenty-eighth, eighteen hundred and fifty-seven, approved April twenty-seventh, eighteen hundred and sixty; an act for the relief of the enlisted men of the California volunteers in the service of the United States, approved April twenty-seventh, eighteen hundred and sixty-three; an act granting bounties to the volunteers of this state, enlisted in the service of the United States, for issuing bonds to provide funds for the payment of the same, and to levy a tax to pay such bonds, approved April fourth, eighteen hundred and sixty-four; and an act authorizing the issuance of state bonds to the amount of two hundred and fifty thousand dollars, to be known as state capitol bonds, approved April fourth, eighteen hundred and seventy—shall not be presented to the state treasurer for payment for a period of one year after such coupon has become due and payable, it shall be the duty of the state treasurer to furnish the state controller and state board of examiners each with a list of such coupons not presented for payment, with the amount thereof, whereupon the state controller shall order the treasurer to place the money held by him for the payment of such coupons into the general fund of the state treasury, and the amount so ordered into the general fund shall be placed to the credit of said fund on the books of the controller and treasurer in the same manner as other moneys paid into the state treasury.

§ 8. Whenever any of the interest coupons mentioned in the seventh section of this act are presented for payment, after the money to pay the same has been

transferred to the general fund, such coupons shall be presented to the state board of examiners, which board shall audit and allow them out of the general fund of the state treasury, and shall transmit a voucher to the state controller upon which to draw his warrant upon the state treasurer. Upon the presentation of such warrant and the surrender to him of the coupons for the payment of which the said warrant is drawn, the state treasurer shall pay the same out of the general fund.

§ 9. Immediately after the passage of this act the state board of examiners shall examine the books in the state treasurer's office in which are pasted the coupons of the registered bonds of the state paid by him, and shall require the state treasurer to make out a list of all the coupons not found therein, as provided for in section seven of this act, and the money held by him for the payment thereof shall be placed in the general fund, as provided in this act.

§ 10. This act shall take effect from and after its passage.

STATE BOARD OF EXAMINERS.

Authorizing the state board of examiners to sell old furniture and all material belonging to the state and not required for public use.

(Stats. 1891, 452, ch. CCXXXV.)

§ 1. The state board of examiners are hereby authorized to sell, when in their judgment they deem it advisable, the old furniture and all other useless material belonging to the state and not required for state purposes, and pay the proceeds thereof into the state treasury to the credit of the general fund.

§ 2. This act shall take effect immediately.

Employees in office of.—See **KERR'S CYC. POL. CODE** §§ 684, 685.

STATE BOARD OF HEALTH—ANTITOXIN.

To authorize the state board of health to purchase and manufacture diphtheria antitoxin, and to appropriate six thousand dollars therefor.

(Stats. 1895, 45, ch. XXXIX.)

§ 1. The state board of health is hereby authorized to procure, manufacture, and distribute, through some department of the state university, the medicinal substance known as diphtheria antitoxin.

§ 2. The sum of six thousand dollars is hereby appropriated out of the general fund, to be expended under the direction of the state board of health, for the procurement, preparation, and distribution of diphtheria antitoxin under the supervision of said state board of health.

§ 3. This act to take effect immediately.

See **tits. Analyst—State; Health—Public; Quarantine.**

STATE BOARD OF HEALTH—ATTORNEY.

To create the office of attorney for the state board of health and the board of health of the city and county of San Francisco.

(Stats. 1891, 209, ch. CXLVIII.)

§ 1. The office of attorney for the state board of health and the board of health of the city and county of San Francisco is hereby created; such attorney

shall be appointed by the governor, and shall hold his office as such attorney for the term of four years, and until his successor is elected and qualified.

§ 2. It shall be the duty of such attorney to act for and represent the state board of health and the board of health of the city and county of San Francisco in all legal matters which may require their attention as such boards of health, and to specially represent and act for and in co-operation with said boards of health, when required by them, in the prevention of all acts and things which, in the judgment of said boards of health, or either of them, may have a tendency to be detrimental to the health of the people of the state; and in such other matters pertaining to the health of the state in general and the duties of said boards of health, to assist and aid them with his advice, and to represent and act for them in court.

§ 3. The salary of such attorney shall be three thousand dollars per annum, and shall be paid out of the state treasury, upon warrants drawn by the controller, in the same manner as the salaries of other state officers are paid.

§ 4. All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage.

People ex rel. Spencer vs. Knight, 116 Cal. 108, 109, 47 Pac. Rep. 925.

STATE BOARD OF HEALTH—HYGIENIC LABORATORY.

To establish and maintain a state hygienic laboratory for bacteriological and chemical analyses for the use of the state board of health, providing for the appointment of a director thereof, and assistants; making an appropriation therefor and prescribing the duties of the state controller and state treasurer in relation thereto.

(Stats. 1905, 209, ch. CCXXIII.)

§ 1. There shall be established and maintained at the University of California at Berkeley, for the use of the state board of health, a state hygienic laboratory for bacteriological and chemical analyses, which shall be under the management of the state board of health.

§ 2. The regents of the University of California shall from the money hereby appropriated, purchase suitable equipments, apparatus, chemicals and supplies for the maintenance of such laboratory in the existing laboratories of the University of California at Berkeley.

§ 3. The regents of the University of California shall appoint a director of said laboratory from the existing instructing staff of the university. Said director shall be a skilled bacteriologist and chemist and shall have general supervision of the performance of all duties required by the state board of health. The regents of the University of California shall appoint one or more assistants, whose time shall be exclusively devoted to the work designated by the state board of health, under the supervision of the director of the laboratory.

§ 4. The sum of four thousand dollars (\$4,000) is hereby appropriated out of any money in the state treasury not otherwise appropriated, for salaries and for the purchase of equipment, apparatus, chemicals and supplies for the maintenance of said laboratory, and of the office expenses in connection with the same. Of the amount herein appropriated, the sum of two thousand dollars (\$2,000)

shall be available during the fiscal year nineteen hundred and five and nineteen hundred and six; and two thousand dollars (\$2,000) during the fiscal year nineteen hundred and six and nineteen hundred and seven.

§ 5. The state controller is hereby authorized to draw his warrants, for the sums herein appropriated, in favor of the treasurer of the regents of the University of California, and the state treasurer is hereby directed to pay the same.

STATE BOARD OF HEALTH—POLLUTION OF WATER.

See KERR'S CYC. PEN. CODE § 377a, added 1905; KERR'S CYC. POL. CODE § 2984.

STATE BOARD OF HEALTH—POLLUTION OF ICE.

See KERR'S CYC. PEN. CODE § 377c, added 1905, 138.

Powers of in municipalities.—See KERR'S CYC. PEN. CODE § 290.

Vital statistics.—See KERR'S CYC. POL. CODE §§ 2984, 3027, 3074-3083.

Violating orders of, a misdemeanor.—See KERR'S CYC. PEN. CODE § 377a (new).

See tits. Burial and Disinterment—Permits; Cemeteries—Disinterment, and note thereunder.

STATE BOUNDARY—EASTERN.

To define and establish a portion of the eastern boundary of the state of California.

(Stats. 1901, 89, ch. LXXIII.)

§ 1. That portion of the eastern boundary line of the state of California southeastward from Lake Tahoe, and extending to the Colorado River; that is to say: southeastward from the intersection of the thirty-ninth degree of north latitude, with the one hundred and twentieth degree of longitude west from Greenwich, to the Colorado River, as lately surveyed, established, and marked by the United States Coast and Geodetic Survey, completed during the year nineteen hundred, is hereby declared to be the true, correct and legal boundary line of the state of California between Lake Tahoe and the Colorado River, and the said line as surveyed, established and marked aforesaid, shall now and hereafter be recognized and considered by the courts of this state as the boundary of this state between the two said points, viz.: Lake Tahoe and the Colorado River.

§ 2. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

The state surveyor-general was directed to establish this boundary by Stats. 1889, 38, ch. XXXI; Const. 1879, art. XXI, § 1.

See tit. State of California.

STATE CAPITOL—EMPLOYEES.

Authorizing the appointment of certain permanent employees of the state capitol, and fixing their compensation.

(Stats. 1873-4, 937, ch. DCLXVI; amended 1880, 107, ch. CI; 1889, 449, ch. CCLXXXVII.)

§ 1. The superintendent of the state capitol is hereby authorized and empowered to appoint the following employees of the building, and who shall serve

during his pleasure: One janitor, one engineer, one fireman, four porters, and three watchmen. [Amendment, Stats. 1889, 449.]

§ 2. It shall be the duty of the janitor to take general charge of the state capitol building, and to secure and preserve the furniture, carpets, curtains, and all other property therein. He shall superintend the lighting of the building, note the state of the gas meter, and the correctness of the bill for gas each month, before the same is presented for payment. He shall check the delivery of supplies of wood and coal, and become satisfied that the quantity delivered corresponds with the amount ordered by the superintendent. He shall exercise general supervision of the porters and watchmen, have full power to make arrests for disorderly conduct about the building or grounds, and do and perform such other duties as may be required of him by the superintendent.

§ 3. The board of state capitol commissioners are hereby authorized and empowered to appoint the following employees of the capitol grounds, and who shall serve during the pleasure of said board: One gardener, twelve laborers, and one watchman of the governor's mansion. The gardener shall have general control of the capitol grounds, and shall superintend and direct the planting and culture of the trees, shrubbery, plants, and grasses thereof, and preserve in order the walks, [and] grass plots of said grounds. He shall exercise direction and control over the laborers employed under this act to aid in taking charge of said grounds. He shall have full power to make arrests within the capitol grounds for criminal or disorderly conduct, and to perform such other duties as may be required of him by the said state capitol commissioners. [Amendment, Stats. 1889, 449.]

§ 4. The following salaries shall be paid to said employees, to wit: Janitor, one hundred and twenty-five dollars per month; engineer, one hundred and twenty-five dollars per month; fireman, ninety dollars per month; porters, ninety dollars each per month; watchmen, ninety dollars each per month; gardener, one hundred and twenty-five dollars per month; laborers, ninety dollars each per month. For the payment of the above salaries, the sum of one thousand four hundred and ten dollars, in addition to the sum appropriated by an act entitled "An act making appropriations for the support of the government of the state of California for the thirty-ninth and fortieth fiscal years," approved March eighteenth, eighteen hundred and eighty-seven, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated. Said salaries shall be paid monthly, as salaries of state officers are paid; and the controller of state is hereby authorized to draw his warrants on the treasurer of state, in accordance with the provisions of this act. [Amendment, Stats. 1889, 449.]

§ 5. This act shall take effect immediately.

STATE CAPITOL—JANITOR.

Fixing the salary of the janitor of the state capitol building, defining his duties, and making an appropriation therefor.

(Stats. 1893, 46, ch. XXX.)

§ 1. It shall be the duty of the janitor to take general charge of the state capitol building, and to secure and preserve the furniture, carpets, curtains, and

all other property therein. He shall superintend the lighting of the building, note the gas meter and the electric meter, and the correctness of the bills for gas and electric lighting for each month, before the same is presented for payment. He shall check the delivery of supplies of wood and coal, and become satisfied that the quantity delivered corresponds with the amount ordered by the superintendent, and certify to the correctness thereof to the superintendent. He shall check the delivery of supplies of stationery and blank-books received from contractors, by schedules furnished him by the state board of examiners. He shall have the charge and custody of all stationery and blank-books purchased by the state for the use of state officers and members of the legislature, and shall keep a strict and accurate account of all supplies drawn by each, and also an account of all supplies on hand. He shall exercise general supervision of the porters and watchman, have full power to make arrests for disorderly conduct about the building or grounds, and do and perform such other duties as may be required of him by the superintendent.

§ 2. The salary of the janitor of the state capitol building shall be two thousand dollars per annum, payable in the same manner as the salaries of other state officers.

§ 3. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of two hundred eight and forty one hundredths dollars for the payment of the increase in the salary of the janitor of the capitol building for the remainder of the forty-fourth fiscal year.

§ 4. This act shall take effect immediately.

STATE CAPITOL.

See tit. Intoxicating Liquors.

STATE DEBT—LOAN COMMISSIONERS.

The statute of 1891, 210, ch. CXLIX, to create a board of loan commissioners, and provide for the payment of the funded debt of the state, was submitted to election by

the people, as by the statute provided, at the next general election, but it failed to receive the necessary vote, and never became law.

STATE OF CALIFORNIA—ACTIONS AGAINST.

To authorize suits against the state, and regulating the procedure therein.

(Stats. 1893, 57, ch. XLV.)

§ 1. All persons who have, or shall hereafter have, claims on contract or for negligence against the state not allowed by the state board of examiners, are hereby authorized, on the terms and conditions herein contained, to bring suit thereon against the state in any of the courts of this state of competent jurisdiction, and prosecute the same to final judgment. The rules of practice in civil cases shall apply to such suits, except as herein otherwise provided.

§ 2. No such suit shall be maintained on any claim now existing, unless the same be brought within two years after this act takes effect; nor shall any such suit be maintained on any cause of action hereafter arising, unless the same shall be commenced within two years after such cause of action shall have accrued; provided, that the period of limitation provided for in section two of this act

shall not apply to or affect the rights, interest, or claims of any minor or insane person, or a person imprisoned on a criminal charge, or in execution under a sentence of a criminal court for a period of not less than for life, or a married woman and her husband be a necessary party with her in commencing such action, or an incompetent person, but such action may be commenced within the period above provided for after such disability shall cease.

§ 3. At the time of filing the complaint in any such suit, the plaintiff shall file therewith an undertaking, in such sum, not less than five hundred dollars, as a judge of the court shall fix, with two sufficient sureties, to be approved by a judge of the court, and conditioned that, in case the plaintiff fails to recover judgment, he will pay all costs incurred by the state in such suit, including a reasonable counsel fee, to be fixed by the court.

§ 4. Service of summons in such suits shall be made on the governor and attorney-general. It shall be the duty of the attorney-general to defend all such suits; and upon his written demand, made at or before the time of answering, the place of trial of any such suit must be changed to the county of Sacramento.

§ 5. In case judgment be rendered for the plaintiff in any such suit, it shall be for the amount actually due from the state to the plaintiff, with legal interest thereon, from the time the obligation accrued, and without costs.

§ 6. It shall be the duty of the governor to report to the legislature, at each session, all judgments rendered against the state, and not theretofore reported.

§ 7. It shall be the duty of the controller to draw his warrant for the payment of any such judgment, without any presentation to or approval of such claim by the state board of examiners, whenever a sufficient appropriation for such payment shall have been made by the legislature; and all claims upon such judgments are hereby expressly exempted from the operation of section six hundred and seventy-two of the Political Code.

§ 8. This act shall take effect immediately.

Stats. 1893, 57.—Chapman vs. State, 104 Cal. 690, 693, 43 Am. St. Rep. 158, 38 Pac. Rep. 457; (Indian war) Molineux vs. State, 109 Cal. 378, 379, 50 Am. St. Rep. 49, 42 Pac. Rep. 34; Melvin vs. State, 121 Cal. 16, 21, 53 Pac. Rep. 416; Davis vs. State, 121 Cal. 210, 211, 53 Pac. Rep. 555; Denning vs. State, 123 Cal. 316, 319, 55 Pac. Rep. 1000; Polk vs. State of California, 138 Cal. 384, 385, 71 Pac. Rep. 435, 648; County of San Luis Obispo vs. Gage, 139 Cal. 398, 404, 405, 73 Pac. Rep. 174; Bickerdike vs. State, 144 Cal. 681, 691, 78 Pac. Rep. 270.

Coyote scalps.—As to actions against the state on account of coyote scalps (Stats.

1891, 280, repealed 1895, 1), see Ingram vs. Colgan, 106 Cal. 113, 116, 46 Am. St. Rep. 221, 38 Pac. Rep. 315, 39 Id. 437; Bickerdike vs. State, 144 Cal. 681, 684, 78 Pac. Rep. 270.

By Stats. 1901, 646, ch. CCXIV, actions were authorized to be brought by claimants of coyote scalp bounty (under Stats. 1891) within twelve months after the passage of the statute. Under this, see San Francisco L. & C. Co. vs. State of California, 141 Cal. 354, 355, 74 Pac. Rep. 1047; Bickerdike vs. State, 144 Cal. 681, 683, 78 Pac. Rep. 270; Bickerdike vs. State, 144 Cal. 698, 699, 78 Pac. Rep. 277.

STATE OF CALIFORNIA—ACTIONS AGAINST.

To authorize suits against the state concerning certain real property, and regulating the procedure therein.

(Stats. 1901, 111, ch. XCVII.)

§ 1. All persons having or claiming title to the whole or to any part of the following described real property, to wit:

The fractions in the east half of section nineteen and the west half of section twenty, the northwest quarter of the northeast quarter and south half of the northeast quarter and the southeast quarter of section twenty and the southwest quarter of section twenty-one, being the land applied for and sold to A. H. Estell as a portion of the five hundred thousand acre grant; also, the fractional northwest and fractional northeast quarter of section twenty-eight, being the land applied for and sold to A. H. Estell as a portion of the ten section grant; all being in township three south and range seven east, Mount Diablo base and meridian, Stanislaus County and state of California, and containing seven hundred and seventy-four and fifty-eight hundredths acres:

Are hereby authorized, on the terms and conditions herein contained, to bring suit against the state of California in any court of competent jurisdiction in said state to quiet title to said land or to any portion thereof, and to prosecute the same to final judgment. The rules of practice in civil cases relating to suits to quiet title shall apply to such suits as may be brought under this authorization, except as herein otherwise provided.

§ 2. Any such suit to quiet title shall be commenced within one year after this act takes effect.

§ 3. At the time of filing the complaint in any such suit, the plaintiff shall file therewith an undertaking, in such sum, not less than five hundred dollars, as a judge of the court shall fix, with two sufficient sureties, to be approved by the judge of the court, and conditioned that, in case the plaintiff fails to recover judgment quieting the title of such plaintiff, he will pay all costs incurred by the state in such suit, including a reasonable counsel fee to be fixed by the court.

§ 4. Service of summons in such suit shall be made on the governor and attorney-general. It shall be the duty of the attorney-general to defend all such suits.

§ 5. A certified copy of any decree rendered in any such action quieting title may be recorded in the office of the county recorder of Stanislaus County and shall thereafter have the same effect as if such decree had been made in the superior court of said Stanislaus County.

§ 6. This act shall take effect immediately.

See next succeeding statute and note.

STATE OF CALIFORNIA—ACTIONS AGAINST.

Authorizing suits against the state on claims or demands arising under an act of the legislature entitled "An act fixing a bounty on coyote scalps," approved March thirty-first, eighteen hundred and ninety-one, and regulating the procedure therein.

(Stats. 1901, 646, ch. CCXIV.)

§ 1. The owners or holders of claims or demands against this state arising under the provisions of an act of the legislature entitled "An act fixing a bounty on coyote scalps," approved March thirty-first, eighteen hundred and ninety-one, may, within twelve months from the passage of this act, bring suit upon their said claims or demands in any superior court of this state, and prosecute the same

to final judgment. The rules of practice in civil cases shall apply to such suits, except as herein otherwise provided, with the right of appeal to either party.

§ 2. Service of summons in such suits shall be made on the attorney-general. It shall be the duty of the attorney-general to defend all such suits; and upon his written demand, made at or before the time of answering, the place of trial of any such suit must be changed to the county of Sacramento.

§ 3. All costs in any suit brought hereunder shall be paid by the plaintiff in the action; and in case judgment therein be for the plaintiff, it shall be for the amount actually found due to the plaintiff, without interest thereon and without costs; and such judgment shall bear no interest after rendition.

§ 4. It shall be the duty of the attorney-general to report to the legislature at its next ensuing session all final judgments recovered against the state hereunder, not theretofore reported.

§ 5. This act shall take effect immediately.

The following special statutes, authorizing suits against the state, may be noted: 1891, 194, as to Robert C. Ball; 1891, 275, as to Coulterville & Y. T. Co.; 1875-6, 680, as to John Lord Love and others.

As to actions against the state under Stats. 1885, 107, ch. CXXIII, entitling Hoagland and others to sue, see *Green vs. State*, 72 Cal. 29, 30, 11 Pac. Rep. 602, 14 Id. 610.

STATE OF CALIFORNIA—GIFTS.

See tit. Gifts to Public Use.

STATE OF CALIFORNIA—LANDS.

To release the claim of the state of California to certain lands in township eleven north, range four east, Mount Diablo base and meridian.

(Stats. 1871-2, 948, ch. DCXXXV.)

§ 1. The state of California releases to the United States and to all parties claiming under the United States all those parcels of land lying in township eleven (11) north, range four (4) east, Mount Diablo base and meridian, and described as the southwest quarter of the southwest quarter (S. W. $\frac{1}{4}$ of S. W. $\frac{1}{4}$) of section three (3); the southeast quarter of the southeast quarter (S. E. $\frac{1}{4}$ of S. E. $\frac{1}{4}$) of section four (4); the east half of section nine (9); the south half (S. $\frac{1}{2}$); the south half of the northwest quarter (S. $\frac{1}{2}$ of N. W. $\frac{1}{4}$) and the northwest quarter of the northwest quarter (N. W. $\frac{1}{4}$ of N. W. $\frac{1}{4}$) of section ten (10); the southwest quarter (S. W. $\frac{1}{4}$) and the south half of the northwest quarter (S. $\frac{1}{2}$ of N. W. $\frac{1}{4}$) of section fourteen (14); all of section fifteen (15); the north half (N. $\frac{1}{2}$) of section seventeen (17); the north half (N. $\frac{1}{2}$) of section twenty-one (21); and the southeast quarter (S. E. $\frac{1}{4}$) of section twenty-one (21); all of section twenty-two (22); the west half (W. $\frac{1}{2}$) of section twenty-three (23); the west half of southwest quarter (W. $\frac{1}{2}$ of S. W. $\frac{1}{4}$) of section twenty-six (26); all of section twenty-seven (27); the west half of the west half (W. $\frac{1}{2}$ of W. $\frac{1}{2}$) of section thirty-five (35) and the northeast quarter (N. E. $\frac{1}{4}$) of section six (6).

§ 2. This act shall take effect and be in force from and after its passage.

STATE OF CALIFORNIA—LANDS.

Ceding to the United States of America jurisdiction over lands in this state ceded to the United States.

(Stats. 1891, 262, ch. CLXXXI.)

§ 1. The state of California hereby cedes to the United States of America exclusive jurisdiction over such piece or parcel of land as may have been or may be hereafter ceded or conveyed to the United States, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of this state and the service of civil process therein.

§ 2. This act shall take effect immediately.

See tit. **Lands of State**, ante.

STATE OF CALIFORNIA.

See tits. **Congressional Districts; Controller of State; Ferry Depot; Index to Statutes; State Funds; State Debt, Etc.**

STATE CONTROLLER.

See tits. **Controller of State; Board of Examiners.**

STATE DAIRY BUREAU.

To prevent deception in the manufacture and sale of butter and cheese, and to secure its enforcement, and to appropriate money therefor.

(Stats. 1897, 65, ch. LXXV.)

§ 1. That for the purposes of this act, every article, substance, or compound, other than that produced from pure milk or cream from the same, made in the semblance of butter, and designed to be used as a substitute for butter made from pure milk or cream from the same, is hereby declared to be imitation butter; and that for the purposes of this act, every article, substance, or compound, other than that produced from pure milk or cream from the same, made in the semblance of cheese, and designated to be used as substitute for cheese made from pure milk or cream from the same, is hereby declared to be imitation cheese; provided, that the use of salt, rennet, and harmless coloring matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation; and provided, that nothing in this section shall prevent the use of pure skimmed milk in the manufacture of cheese.

§ 2. No person, by himself or his agents or servants, shall render or manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell, or use, or serve to patrons, guests, boarders, or inmates, in any hotel, eating-house, restaurant, public conveyance or boarding-house, or public or private hospital, asylum, or eleemosynary or penal institution, any article, product, or compound made wholly or partly out of any fat, oil, or oleaginous substance or compound thereof, not produced directly and at the time of manufacture from unadulterated milk or cream from the same, which article, product, or compound

shall be colored in imitation of butter or cheese produced from unadulterated milk or cream from the same; provided, that nothing in this section shall be construed to prohibit the manufacture or sale, under the regulations hereinafter provided, of substances or compounds, designed to be used as an imitation, or as a substitute for butter or cheese made from pure milk or cream from the same, in a separate and distinct form, and in such a manner as will advise the consumer of its real character, free from coloration, or ingredients, that causes it to look like butter or cheese made from pure milk or cream, the product of the dairy.

§ 3. Each person who, by himself or another, lawfully manufactures any substance designed to be used as a substitute for butter or cheese, shall mark by branding, stamping, or stenciling upon the top and sides of each tub, firkin, box, or other package in which such article shall be kept, and in which it shall be removed from the place where it is produced, in a clear and durable manner, in the English language, the words "Substitute for butter," or "Substitute for cheese," as the case may be, in printed letters in plain Roman type, each of which shall not be less than one inch in height by one half inch in width, and in addition to the above shall prepare a statement, printed in plain Roman type, of a size not smaller than pica, stating in the English language its name, and the name and address of the manufacturer, the name of the place where manufactured or put up, and also the names and actual percentages of the various ingredients used in the manufacture of such imitation butter or imitation cheese; and shall place a copy of said statement within and upon the contents of each tub, firkin, box, or other package, and next to that portion of each tub, firkin, box, or other package as is commonly and most conveniently opened; and shall label the top and sides of each tub, firkin, box, or other package by affixing thereto a copy of said statement, in such manner, however, as not to cover the whole or any part of said mark of "Substitute for butter," or "Substitute for cheese."

§ 4. No person, by himself or another, shall knowingly ship, consign, or forward by any common carrier, whether public or private, any substance designed to be used as a substitute for butter or cheese, unless the same be marked and contain a copy of the statement, and be labeled as provided by section three of this act; and no carrier shall knowingly receive the same for the purpose of forwarding or transporting, unless it shall be manufactured, marked, and labeled as hereinbefore provided, consigned, and by the carrier receipted for by its true name; provided, that this act shall not apply to any goods in transit between foreign states and across the state of California.

§ 5. No person, or his agent, shall knowingly have in his possession or under his control any substance designed to be used as a substitute for butter and cheese unless the tub, firkin, box, or other package containing the same, shall be clearly and durably marked and contain a copy of the statement, and be labeled as provided by section three of this act; and if the tub, firkin, box, or other package be opened, then a copy of the statement described in section three of this act shall be kept, with its face up, upon the exposed contents of said tub, firkin, box, or other package; provided, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves or family.

§ 6. No person, by himself or another, shall sell, or offer for sale, or take orders for the future delivery of, any substance designed to be used as a substitute for butter or cheese, under the name of or under the pretense that the same is butter or cheese; and no person, by himself or another, shall sell any substance designed to be used as a substitute for butter or cheese, unless he shall inform the purchaser distinctly, at the time of the sale, that the same is a substitute for butter or cheese, as the case may be, and shall deliver to the purchaser, at the time of the sale, a separate and distinct copy of the statement described in section three of this act; and no person shall use in any way, in connection or association with the sale, or exposure for sale, or advertisement, of any substance designed to be used as a substitute for butter or cheese, the words "butterine," "creamery," or "dairy," or the representation of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols, or combinations thereof, commonly used by the dairy industry in the sale of butter or cheese.

§ 7. No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch counter, or other place of public entertainment, or any person having charge thereof, or employed thereat, or any person furnishing board for others than members of his own family, or for any employee where such board is furnished as the compensation or as a part of the compensation of any such employee, shall place before any patron or employee, for use as food any substance, designed to be used as a substitute for butter and cheese, unless the same be accompanied by a copy of the statement described in section three of this act, and by a verbal notification to said patron that such substance is a substitute for butter or cheese.

§ 8. No action can be maintained on account of any sale or other contract made in violation of, or with intent to violate, this act by or through any person who was knowingly a party to such wrongful sale or other contract.

§ 9. Every person having possession or control of any substance designed to be used as a substitute for butter or cheese which is not marked as required by the provisions of this act, shall be presumed to have known, during the time of such possession or control, that the same was imitation butter, or imitation cheese, as the case may be.

§ 10. No person shall efface, erase, cancel, or remove any mark, statement, or label provided for by this act, with intent to mislead, deceive, or to violate any of the provisions of this act.

§ 11. No butter or cheese not made wholly from pure milk or cream, salt, harmless coloring matter, shall be used in any of the charitable or penal institutions that receive assistance from the state.

§ 12. Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished, for the first offense, by a fine of not less than fifty dollars, nor more than one hundred and fifty dollars, or by imprisonment in the county jail for not exceeding thirty days; and for each subsequent offense, by a fine of not less than one hundred and fifty dollars, nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days, nor more than six months, or by both such fine and imprisonment, in the discretion of the court. One half

of all the fines collected under the provisions of this act shall be paid to the person or persons furnishing information upon which conviction is procured.

§ 13. Whoever shall have possession or control of any imitation butter or imitation cheese, or any substance designed to be used as a substitute for butter or cheese, contrary to the provisions of this act, shall be construed to have possession of property with intent to use it as a means of committing a public offense, within the meaning of chapter three, of title twelve, of part two, of an act to establish a penal code; provided, that it shall be the duty of the officer who serves a search warrant issued for imitation butter or imitation cheese, or any substance designed to be used as a substitute for butter or cheese, to deliver to the agent of the dairy bureau, or to any person by such dairy bureau authorized in writing to receive the same, a perfect sample of each article seized by virtue of such warrant, for the purpose of having the same analyzed, and forthwith to return to the person from whom it was taken the remainder of each article seized as aforesaid. If any sample be found to be imitation butter or imitation cheese, or substance designed to be used as a substitute for butter or cheese, it shall be returned to and retained by the magistrate as and for the purpose contemplated by section fifteen hundred and thirty-six of an act to establish a penal code; but if any sample be found not to be imitation butter or imitation cheese, or a substance designed to be used as a substitute for butter or cheese, it shall be returned forthwith to the person from whom it was taken.

§ 14. It shall be the duty of the district attorney, upon the application of the dairy bureau, to attend to the prosecution, in the name of the state, of any suit brought for the violation of any of the provisions of this act within his district.

§ 15. The governor shall on or before the first day of July, eighteen hundred and ninety-seven, appoint three resident citizens of this state, who shall have practical experience in the manufacture of dairy products, to constitute a state dairy bureau, and which succeed the one now in existence in every respect. Members of this bureau shall hold office for the period of four years from and after the first day of July, eighteen hundred and ninety-seven, and until their successors are appointed and qualified; provided, that the first members appointed under the provisions of this act shall at their first meeting so classify themselves by lot as that one shall go out of office at the expiration of two years, one at the expiration of three years, and the other at the expiration of four years. Any vacancy shall be filled by appointment by the governor for the unexpired term. The members of said bureau shall serve without compensation, and within twenty days after their appointment, shall take the oath of office as required by the constitution, and they shall thereupon meet and organize by electing a chairman and treasurer. Any one of them may be removed by the governor, for neglect or violation of duty. They shall make a report in detail to the legislature not later than the first day of December next preceding the meetings thereof.

§ 16. It shall be the duty of the state dairy bureau to secure, as far as possible, the enforcement of this act. The state dairy bureau shall have power to employ an agent at a salary of twelve hundred dollars a year, and such assistants or chemists, as from time to time may be necessary therefor.

§ 17. There is hereby appropriated for the use of this state dairy bureau, out

of any money in the state treasury not otherwise appropriated, the sum of five thousand dollars for each fiscal year hereafter, and commencing with the forty-ninth fiscal year. All salaries, fees, costs, and expenses of every kind incurred in the carrying out of the law shall be drawn from the sum so appropriated, and the state controller shall draw his warrant on the state treasurer in favor of the person entitled to the same.

§ 18. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 19. This act shall take effect immediately.

Prior acts on this subject are: 1881, 14; 1895, 41.—See **KERR'S CYC. PEN. CODE** §§ 381a, 318b, in relation to duties of state dairy bureau.

STATE DEBT.

See tit. **Loan Commissioners.**

STATE DEBT—EXCESS OVER APPROPRIATIONS.

To prohibit the creation of debts against the state in excess of appropriations made by law, except in cases of actual necessity and on consent of the board of examiners.

(Stats. 1893, 285, ch. CCI.)

§ 1. No officer or employee in the service of the state shall have power to create any deficiency in excess of any appropriation of money made by law, except in case of actual necessity, and only then upon the written authority, first obtained, of the governor, secretary of state, and attorney-general; and any indebtedness attempted to be created against the state in violation of the provisions of this act shall be absolutely null and void, and shall not be allowed by the state board of examiners.

§ 2. This act shall take effect from and after its passage.

STATE ENGINEER.

This office was created by Stats. 1877-8, 634, ch. CCCCXXIX, but by amendment to Stats. 1889, 328, ch. CCXVIII, the existence of the office was limited to two years.—See *Irelan vs. Colgan*, 96 Cal. 413, 31 Pac. Rep. 294.

STATE FLOWER.

To select and adopt the “golden poppy” as the state flower of California.

(Stats. 1903, 78, ch. LXIX.)

§ 1. The golden poppy (*eschscholtzia*) is hereby selected, designated, and adopted as the state flower of the state of California.

§ 2. This act shall be in force and effect from and after its passage.

STATE FUNDS—DISPOSITION OF.

Requiring the payment into the state treasury of all moneys belonging to the state, received by the various state institutions, commissions, and officers, and directing the disposition of the proceeds.

(Stats. 1899, 110, ch. XCIII; amended 1905, 382, ch. CCCXXVIII.)

§ 1. All moneys belonging to the state received from any source whatever by any officer, commission or commissioner, board of trustees, board of managers or

board of directors, shall be accounted for at the close of each month to the state controller, in such form as the controller may prescribe, and at the same time, on the order of the controller, be paid into the state treasury; provided, in the case of any state hospital, asylum, prison, school or harbor, supported by or under control of the state said money shall be credited to a fund to be known as the contingent fund of the particular institution from which such money is received, and may be expended under the same laws and provisions that govern the expenditure of money appropriated for the support of such institutions, and provided, that in every case where the law directs the board of trustees, managers or directors, or officer to refund any money upon the death or discharge of any inmate of said hospital, asylum, prison, school or other institution, or to provide a discharged inmate with any sum of money or with wearing apparel, such amount of money necessary shall be paid by the board of trustees, managers or directors or officer, upon demand; and in the statement to the controller herein provided for, these amounts shall be itemized and the aggregate deducted from the amount to be paid into the state treasury; provided, further, that all money collected by boards of harbor commissioners shall be paid into the harbor improvement fund of the respective harbor where collected, except so much thereof as may be necessary to pay the expense of urgent repairs, not to exceed in the aggregate six thousand dollars per month, which sum, if so much be required, may be used in repairing the wharves, piers, landings, thoroughfares, sheds, and other structures, and the streets bounding on the water front under the jurisdiction of such board of harbor commissioners, without advertising the proposals therefor. [Amendment, Stats. 1905, 382.]

§ 2. Immediately upon the passage of this act, any moneys belonging to the state now in the hands of the boards of trustees, managers, or directors of the institutions mentioned herein, or of any treasurer or secretary thereof, shall be accounted for to the controller and paid into the state treasury, to be credited and disposed of in the manner hereinbefore indicated.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

§ 4. This act shall take effect immediately.

STATE FUNDS—DRAINAGE.

Authorizing the controller and treasurer to transfer to the general fund all moneys now in the state drainage construction fund and also, from time to time, to transfer to the general fund all moneys that may hereafter be paid into the state drainage construction fund.

(Stats. 1891, 237, ch. CLXV.)

§ 1. The controller is hereby authorized to transfer to the general fund all moneys standing to the credit of the state drainage construction fund, and also, from time to time, to transfer to the general fund all moneys that may hereafter be paid into the state drainage construction fund.

§ 2. The controller, immediately after making the transfers provided for in this act, shall notify the state treasurer of the same, and the treasurer shall thereupon make corresponding transfers upon the books of his office.

§ 3. This act shall take effect immediately.

A like authorization may be found in Stats. 1891, 279, ch. CXC VII, relating to the fund of drainage district No. 1. Also with reference to the election reward fund, lep-

rosy fund, interest and sinking fund, levee district No. 5, and abolishing said funds, Stats. 1893, 6, ch. IX.

STATE FUNDS—TRANSFER.

Authorizing the governor to order the transfer to the general fund of any money that may be in other funds of the state treasury, and the return thereof to such funds.

(Stats. 1899, 156, ch. CXXV.)

§ 1. Whenever the general fund of the state treasury becomes exhausted, and there is money in other funds not required to meet any accrued demands against such funds, or demands to accrue against such funds, the controller shall report such fact to the governor and treasurer; and if the governor and treasurer find that the money is not needed in such other funds, the governor may, and he is hereby empowered to, order the controller to direct the transfer of such money, or any part thereof, to the general fund. All money so transferred to the general fund under the provisions of this act shall be returned to the fund from which it was transferred as soon as there is sufficient money in the general fund to return the same. Nothing in this act shall be so construed as to order or warrant the transfer of any money from any fund so as to in any manner interfere with the object for which such fund was created.

§ 2. This act shall take effect immediately.

STATE GEOLOGICAL SURVEY.

To provide for the preservation of the material of the geological survey of California.

(Stats. 1873-4, 694, ch. CCCCLXIII.)

§ 1. It shall be the duty of the state geologist to deliver to the president of the University of California, at Berkeley in this state, all instruments, accoutrements, furniture, property, maps, books, drawings, manuscripts, notes, engravings, lithographic stones, woodcuts, field-notes, and other material of every description and nature belonging or appertaining to the geological survey of California; such surrender and delivery to be made without delay.

§ 2. The regents of the University of California shall safely keep and preserve, at the said university, all the property and material referred to in section one of this act, until such time as the legislature may direct otherwise.

§ 3. The sum of five thousand dollars is hereby appropriated out of any money in the general fund not otherwise appropriated, to pay the necessary cost of arranging, packing, transporting, and delivering the said property and material; and the controller shall draw his warrant or warrants for such purpose, not to exceed said sum of five thousand dollars, when directed to do so by the state board of examiners, and the treasurer shall pay the same.

§ 4. The regents of said university shall keep on hand and offer for sale all volumes of reports and maps published by said geological survey; they may also, as soon as the present supply of reports and maps is exhausted, cause any portion of the same to be republished and sold at the prices now provided or that

may hereafter be provided by law; provided, that said republication shall be done without cost to the state; provided further, that the proceeds of the sale of all such maps and reports, over and above the cost of publication, shall be paid in to the state treasurer and by him credited to the school fund of the state.

§ 5. This act shall take effect immediately.

The geological survey of the state was made pursuant to Stats. 1871-2, 355, ch. CCLV.

STATE HARBOR COMMISSIONERS.

To authorize the compromise of certain litigation concerning a portion of the water front of the city and county of San Francisco.

(Stats. 1875-6, 905, ch. DCVI.)

§ 1. The governor, the mayor of the city and county of San Francisco, and the board of state harbor commissioners, are hereby authorized to act as a board of arbitration, to compromise and settle with the claimants of the premises situate between Jackson and Pacific streets, and outside of the line of the water front of the city and county of San Francisco as established by the act of the legislature, entitled "An act to provide for the disposition of certain property of the state of California," approved March twenty-sixth, eighteen hundred fifty-one. The settlement and compromise must embrace the whole of the premises, or none.

§ 2. Upon such compromise and settlement being made, and upon the execution and delivery to the board of state harbor commissioners of proper deeds of conveyance to the state of California of the said premises, free of all encumbrances, and surrender of possession of the same to the said board, they, or a majority of them, shall certify in writing, to the controller of state, the amount to be paid to the several claimants, and the fact of the execution and delivery of such deeds and surrender of possession of the premises; and thereupon the controller must draw his warrant or warrants on the state treasurer in favor of the person or persons named in said certificate, and on the presentation of such warrants to the state treasurer, he shall pay the same out of the San Francisco harbor improvement fund; and sufficient of said fund is hereby appropriated for that purpose.

§ 3. The said settlement and compromise, and the execution of the deeds and delivery of possession of the premises, shall be made within six months after the passage of this act, or the authority thereby granted shall cease.

§ 4. All proceedings for the recovery of the said premises must be stayed until the expiration of said six months.

§ 5. Nothing in this act shall be construed as a recognition by the state of California of any title in said claimants, or either of them, to any part of the said premises.

§ 6. [This] act shall take effect from its passage.

STATE HARBOR COMMISSIONERS—TOLLS.

To provide penalties for failure to pay tolls, by false returns or otherwise, to any board of state harbor commissioners of the state of California.

(Stats. 1891, 27, ch. XLII.)

§ 1. Any person, corporation, firm, or association who shall, by false returns, or in any manner, avoid the payment of all or any portion of any tolls that may

be due to any board of state harbor commissioners of the state of California, from any source or cause, as provided for by law and the rules and regulations of said board, shall be liable for and shall pay to said board twice the amount of such tolls, and in addition thereto the sum of ten dollars over and above such amount.

§ 2. This act shall take effect from and after its passage.

STATE HARBOR COMMISSIONERS—EAST STREET.

To empower the board of state harbor commissioners to rectify the alignment of East Street, from Pacific Street to Market Street, in the city and county of San Francisco, and to sell, acquire, and condemn adjacent property.

(Stats. 1891, 270, ch. CLXXXIX.)

§ 1. The board of state harbor commissioners is hereby authorized and directed to rectify the alignment of East Street, between Pacific Street and Market Street, in the city and county of San Francisco, said rectification to be done so as to straighten the property lines and give as wide and commodious a thoroughfare as the traffic may demand.

§ 2. In no case shall the alignment of the westerly side of said thoroughfare extend east of the inner line of the thoroughfare as now established and defined by law.

§ 3. The jurisdiction of the said board shall be westerly to the line as established under this act.

§ 4. The board, in carrying out this law, shall have the power to purchase and sell, and to exchange, upon a legal and equitable basis, any portion or portions of the property adjacent to the westerly line of the thoroughfare herein provided for; and a full record of their proceedings shall be entered upon their minutes, and a sworn statement of all transfers, sales, and purchases, and other transactions, shall be filed with the secretary of state. Said statements shall show in full all payments and receipts, itemized so as to definitely exhibit the price or prices of each parcel of land transferred.

§ 5. In case of failure on the part of the interested parties to come to a satisfactory agreement, the board shall have the power to condemn, as in other cases, for public purposes.

§ 6. This act shall take effect from and after its passage.

STATE HARBOR COMMISSIONERS—FREE MARKET.

To amend an act entitled "An act to authorize the state board of harbor commissioners to establish and maintain a free public market upon the water front of San Francisco, and providing for the expenses and regulations thereof," approved March twenty-ninth, eighteen hundred and ninety-seven.

(Stats. 1903, 76, ch. LXVIII.)

§ 1. The board of state harbor commissioners shall, within one year from the passage of this act, set apart upon some convenient portion of the water front of San Francisco a sufficient number of blocks and parts of blocks belonging to the state contiguous to the docks and piers for a free market for the greater por-

tion of all the perishable products of the state of California arriving in San Francisco by land, boat, or other conveyance, including fruit, vegetables, eggs, poultry, grain, dairy products, and fish, and shall permit the sale of such products upon said blocks and portions of blocks of land by or for the account of the producers thereof only, under such regulations as may be prescribed by the said board of harbor commissioners and as the public convenience may require.

§ 2. The land so set apart for the free public market shall be as convenient as possible to that portion of the city and county of San Francisco in which the principal wholesale trade in perishable products is now carried on, and must be adjacent and contiguous to such piers and docks as are accessible to all watercraft ordinarily employed in carrying such products upon the waters of San Francisco Bay and the navigable waters contributing thereto, and vessels so loaded shall have the preference at all times at docking at such wharves and piers contiguous to said lands over other vessels not so loaded.

§ 3. Docking room at said piers shall be assigned without partiality to all vessels engaged in the transportation of said products, and the space assigned shall be sufficient to permit such vessels regularly running upon a route to receive and discharge their entire cargoes of such products at the piers aforesaid, if they so desire, subject to the control and direction of the board of state harbor commissioners. And the said board of state harbor commissioners shall construct car tracks to connect the said docks and piers with the land so set apart for the free public market and with the belt railroad. For the use of these tracks the state harbor commissioners shall prescribe such regulations as public convenience may require, and fix the compensation to be paid by the companies making use of them for this purpose.

§ 4. The harbor commissioners shall suitably inclose said free market and construct suitable tramways and tracks or other devices for the rapid conveyance of perishable products from car or boat or other conveyance to the stalls in the free market, and operate the same.

§ 5. The harbor commissioners shall assign space within the free market to all producers of perishable products, under such regulations as the harbor commissioners may prescribe. No rental shall be charged for space in the free market. Any violation of this act, or of the regulations made pursuant thereof, shall exclude the person or firm guilty of such violation from the privilege of selling in the free market, during the pleasure of the harbor commissioners, not exceeding one year, in addition to any other penalty which may be incurred thereby.

§ 6. For the payment of the expenses of said free market the said board of state harbor commissioners may, in their judgment, so adjust tolls upon the said perishable products as shall be delivered into said free market as to provide the necessary revenue; provided, however, that no one shall be compelled to enter into said free public market, and no tolls for the purpose of paying the expenses of said free market shall be levied, assessed, or inflicted upon any products not entering into said free public market; and provided further, that the total of such tolls so levied shall not exceed the total expense of maintaining such free market.

§ 7. The officers of said free market shall be a superintendent and assistant†

superintendent, who shall also be secretary, and such other employees as the state board of harbor commissioners may appoint. The salary of all employees of said free market shall be fixed by the state board of harbor commissioners, and be paid out of the general fund of said harbor commission the same as other employees.

§ 8. All officers and employees of any public market on state property are officers and employees of the state, and shall qualify in the same manner as other employees, and give such bonds as the harbor commissioners may prescribe.

§ 9. There is hereby appropriated out of the San Francisco harbor improvement fund the necessary moneys to enable the harbor commissioners to carry this act into effect, and this appropriation shall have precedence of all other claims on such fund for improvements.

The Act of 1897, 238, ch. CLXXV, is not here inserted, because this so-called "amendatory" act seems to entirely supersede the former.

STATE HARBOR COMMISSIONERS—INSURANCE.

Empowering and authorizing the board of state harbor commissioners to insure against loss or damage by fire the property of the state of California located on the water front at San Francisco, California.

(Stats. 1901, 809, ch. CCLIX.)

§ 1. The board of state harbor commissioners are hereby empowered and authorized to insure against loss or damage by fire the wharves, docks, piers, slips, bulkheads, and structures contained thereon, and improvements located inside and outside of the water-front line, the property of the state of California, and under the control and supervision of the board of state harbor commissioners, situate on the water front at San Francisco, California.

§ 2. This insurance is to be effected and distributed at the discretion and under the direction of the board of state harbor commissioners. The aggregate amount of such fire insurance placed not to exceed the sum of seven hundred thousand dollars, and the cost of same not to exceed the amount of fourteen thousand dollars in premiums for policies to be written for a three years' term. Said cost to be defrayed and paid out of the San Francisco harbor improvement fund. [Amendment, Stats. 1905, 295.]

§ 3. All acts and parts of acts in conflict herewith are hereby repealed

§ 4. This act shall take effect immediately.

STATE HARBOR COMMISSIONERS—TO CONDEMN LANDS.

To authorize and empower the board of state harbor commissioners to institute condemnation proceedings against certain property on the corner of Market, Sacramento, and East streets, in the city and county of San Francisco, and extending their jurisdiction over the same.

(Stats. 1895, 79, ch. LXXXIX.)

§ 1. For the purpose of acquiring terminal facilities for the landing of passengers to and from the passenger and ferry depot at the foot of Market Street,

in the city and county of San Francisco, the board of state harbor commissioners is hereby authorized and empowered to institute condemnation proceedings in the superior court of the city and county of San Francisco, against all parties in interest claiming any title in and to that certain lot, piece, or parcel of land in the city and county of San Francisco, bounded and described as follows, to wit:

Commencing at a point on the westerly line of East Street, distant thereon sixty (60) feet and four (4) inches northerly from the northwesterly corner of the intersection of the northerly line of Market Street with said westerly line of East Street; thence southerly along said westerly line of East Street sixty (60) feet and four (4) inches to the intersection of said line of East Street with the northerly line of Market Street; thence westerly along the northerly line of Market Street eighteen (18) feet and six (6) inches to the intersection of the northerly line of Market Street with the north line of Sacramento Street; thence west along the north line of Sacramento Street seventy-nine (79) feet and eleven (11) inches to a point on said north line of Sacramento Street; thence northeasterly to the point of beginning.

§ 2. The inshore limit of the jurisdiction of said board shall be, and is hereby, extended so as to include the lot of land described in section one of this act.

§ 3. The board of state harbor commissioners may institute any action or actions, and prosecute the same to final judgment for the condemnation of any portion of the premises described in section one of this act; and the purposes herein mentioned are hereby declared to be a public use in which the right of eminent domain may be exercised by the board of state harbor commissioners in the name of the people of the state, for the estates and rights, and in the manner provided in part three, title seven, of the Code of Civil Procedure of this state.

§ 4. The board of state harbor commissioners is hereby authorized to pay any judgment rendered against them in such condemnation proceedings, by a draft drawn upon the controller of the state, who shall draw his warrant therefor on the state treasury, payable out of any money in said treasury credited to the San Francisco harbor improvement fund.

§ 5. This act shall take effect from and after its passage.

STATE HOSPITAL—MINERS.

To provide a state hospital and asylum for miners.

(Stats. 1881, 83, ch. LXXII.)

§ 1. There shall be erected, as soon as conveniently may be, upon some suitable site, to be determined and obtained as is hereinafter provided, a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners, which shall be known as the "California State Miners' Hospital and Asylum."

§ 2. The governor shall nominate, and by and with the advice and consent of the senate appoint five persons to serve as trustees of the said institution, who shall be a body politic and corporate by the name and style of the "Trustees of the California State Miners' Hospital Asylum," and shall manage and direct the concerns of the institution, and make all necessary by-laws and regulations, and shall have power to receive, hold, dispose of, and convey all real and personal

property conveyed to them by gift, devise, or otherwise, for the use of said institution, and shall serve without compensation. Of those first appointed, two shall serve for two years, and three for four years; and at the expiration of the respective terms, each class thereafter shall be appointed for four years. A vacancy in said board, from any cause, shall be filled by appointment by the governor for the unexpired term.

§ 3. The said trustees shall have charge of the general interests of the institution; they shall appoint the superintendent, who shall be a skilful physician and surgeon, subject to removal or re-election no oftener than in periods of ten years, except by infidelity to the trust reposed in him, or for incompetency.

§ 4. The trustees, by and with the consent of the governor, shall make such by-laws and regulations for the government of the institution as shall be necessary; they shall appoint a treasurer, who shall give bonds to the people of the state of California for the faithful discharge of his duties; and they shall fix the compensation of all officers, assistants, and attachés, who may be necessary for the just and economical administration of the affairs of said institution.

§ 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, and who are not chargeable upon townships and counties, shall pay according to the terms directed by the trustees.

§ 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have authority to send to the "California State Miners' Hospital and Asylum" such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.

§ 7. The trustees shall annually, at such time as the governor may designate, report to him, for transmission to the legislature, such a statement as he may require as to the management of the said hospital and asylum.

§ 8. This act shall take effect immediately.

STATE MINERALOGIST.

See tit. **State Analyst.**

STATE MINING BUREAU.

To provide for the establishment, maintenance and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, who shall have the direction, management and control of said state mining bureau and to provide for the appointment, duties and compensation of a state mineralogist, who shall perform the duties of his office, under the control, direction, and supervision of the board of trustees of the state mining bureau.

(Stats. 1893, 203, ch. CLXXIII; amended 1903, 113, ch. CI.)

§ 1. There shall be and there is hereby established in the state of California a mining bureau, the principal office of which shall be maintained in the city of

San Francisco, which said mining bureau shall be under the supervision of a board of trustees, to be known as the board of trustees of the state mining bureau; and it shall be the duty of, and the governor of the state of California is hereby authorized and empowered, to appoint five residents and citizens of the state to be such trustees.

§ 2. The appointees shall take the same oath of office as other state officers, and when duly qualified and assembled shall constitute the board of trustees of the state mining bureau. They shall hold office for four years from the date of their appointment, or until the qualification of their successors, and shall receive no compensation for their services. They shall have control of all properties and funds of said bureau, and shall have the power by the name of said board to sue and defend. Three of them shall constitute a quorum for the transaction of business. They shall elect one of their number to be president of said board, and shall keep a record of their proceedings. They shall adopt rules and regulations for their government not in conflict with the laws of the state.

§ 3. It shall be the duty of the governor of the state of California, and he is hereby empowered to appoint a citizen and resident of this state, having a practical and scientific knowledge of mining and mineralogy, to the office of state mineralogist, which office is hereby created. Said state mineralogist shall hold his office for the term of four years from the date of his appointment, or until the qualification of his successor. He shall take and subscribe the same oath of office as the other state officers, and shall give bond for the faithful performance of his duties in the sum of twenty-five thousand dollars, said bond to be approved by the governor of the state of California. He shall receive for his services a salary of two hundred and fifty dollars per month, to be paid in the same manner as the salaries of other state officers, and shall also receive his necessary traveling expenses when traveling on the business of his office, said expenses, when approved by the board of trustees of the mining bureau, to be allowed and audited by the state board of examiners. The said salary and expenses shall be paid out of the mining bureau fund, herein provided for, and not otherwise.

§ 4. It shall be the duty of said state mineralogist to make, facilitate, and encourage special studies of the mineral resources and mineral industries of the state. It shall be his duty: To collect statistics concerning the occurrence of the economically important minerals and the methods pursued in making their valuable constituents available for commercial use; to make a collection of typical geological and mineralogical specimens, especially those of economic or commercial importance, such collection constituting the museum of the state mining bureau; to provide a library of books, reports, and drawings bearing upon the mineral industries, the sciences of mineralogy and geology, and the arts of mining and metallurgy, such library constituting the library of the state mining bureau; to make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes; to preserve and so maintain such collections and library as to make them available for reference and examination, and open to public inspection at reasonable hours; to maintain, in effect, a bureau of information concerning the mineral industries of this state, to consist of such collections and library, and to arrange, classify, catalogue, and index the data therein contained, in a manner to make the information available to those desiring it, and to provide a custodian

specially qualified to promote this purpose; to make a biennial report to the board of trustees of the mining bureau, setting forth the important results of his work, and to issue from time to time such bulletins as he may deem advisable concerning the statistics and technology of the mineral industries of this state.

§ 5. Said state mineralogist shall have the right to appoint competent assistants and qualified specialists when necessary in the execution of his plans, and fix their compensations, but all such appointments and compensations shall be subject to the approval and confirmation of said board of trustees, and shall not become effective unless so confirmed and approved. And it shall be the duty of the state mineralogist to consult the said board of trustees upon all matters appertaining to his official duties, and he shall at all times perform such duties subject to the supervision and approval of said board of trustees.

§ 6. It shall be the duty of the board of trustees of the state mining bureau, when the funds of said mining bureau will permit, to procure and maintain the necessary rooms and furniture for the offices and uses of the said board of trustees and the state mineralogist, and the museum and library of the mining bureau, in San Francisco; provided, however, that the entire expenses of the state mining bureau for salaries, assistance, light, rent, fuel, furniture, and all other things pertaining to said bureau must not, in any one year, be greater than can be paid out of the mining bureau fund herein provided.

§ 7. The board of trustees of the state mining bureau shall manage and control all the finances of said mining bureau, and shall make rules regulating the custody and disbursement of the funds of the state mining bureau, and the mode of drawing the same from the state treasury.

§ 8. The board of trustees of the state mining bureau shall biennially report to the governor of the state the condition of the bureau, with a statement of the receipts and disbursements in detail, and with said reports shall be incorporated the biennial report of the state mineralogist, and the report of said board of trustees and state mineralogist shall be printed as are the reports of the other state officers. The board is hereby empowered to fix a price upon, and to dispose of to the public, at such price, any and all publications of the bureau, including reports, bulletins, maps, registers, etc. The sum derived from such disposition must be accounted for and used as a revolving printing and publishing fund for other reports, bulletins, maps, registers, etc. The prices fixed must approximate the actual cost of printing and issuing the respective reports, bulletins, maps, registers, etc., without reference to the cost of obtaining and preparing the information embraced therein. [Amendment, Stats. 1903, 113.]

§ 9. The board of trustees of the state mining bureau are hereby empowered and authorized to receive, on behalf of the state, for the use and benefit of the state mining bureau, gifts, bequests, devises, and legacies of real or other property, and to use the same in accordance with the wishes of the donors, and if no instructions are given by said donors, to manage, use, and dispose of the said gifts, bequests, and legacies for the best interests of the said mining bureau in the manner they may deem proper.

§ 10. The state mineralogist may, with the approval of the board of trustees of the state mining bureau, prepare a special collection of ores and minerals of

California, to be sent to any world's fair or exposition at which they may deem it advisable or desirable to display the mineral wealth of the state.

§ 11. The mining bureau fund herein mentioned, and out of which all the expenses of the state mining bureau shall be paid, shall consist of such property or moneys as may come into the hands of the board of trustees of said bureau by gift, bequest, devise, or legacy; of such moneys as may from time to time, be appropriated by the legislature of the state for the use of said bureau, and of such moneys as shall be paid into the state treasury for the use and benefit of said bureau, as provided in the following section.

§ 12. It shall be the duty of the tax collectors in the several counties in the state and of the license collector of the city and county of San Francisco, on the second Monday in January, April, July, and October, in each year, to transmit by express, to the state treasury, all moneys collected by them from mining corporations, or from corporations formed for milling ores, or for supplying water for mining purposes under or by virtue of the act entitled "An act imposing a tax on the issue of certificates of stock corporations," approved April first, eighteen hundred and seventy-eight, and to forward to the state controller, by mail, a certificate showing the amount of money so forwarded to the state treasurer, and the date when the same was transmitted, and also showing the names of the several corporations from which the same was received, and the amount received from each. The state treasurer shall receive the amounts so transmitted, and give duplicate receipts therefor, one of which shall be filed with the state controller, and the other shall be forwarded to the collector from whom the money was received; and after paying out of the money so received the charges for the transmission thereof, the amount of which shall be noted on the receipt filed with the state controller, he shall retain the remainder in his hands and place it in the mining bureau fund, said mining bureau fund to be used only in the payment of drafts made for the expenses of the mining bureau established under this act.

§ 13. Such tax collectors and license collectors shall hereafter be required to pay into the county treasuries of their respective counties only that portion of the moneys collected by them under the act of the legislature mentioned in the last preceding section, approved April first, eighteen hundred and seventy-eight, which is collected from corporations other than those mentioned in section twelve of this act.

§ 14. The board of trustees now known as the board of trustees of the state mining bureau shall perform the duties of the board of trustees of the state mining bureau, as in this act provided, and administer the affairs of the state mining bureau, as in this act provided, until the appointment and qualification of their successors, as in this act provided, and the state mineralogist, now performing the duties of the office of state mineralogist, shall perform the duties of the office of state mineralogist, as in this act provided, until the appointment and qualification of his successor, as in this act provided.

§ 15. The act entitled "An act to provide for the establishment and maintenance of a mining bureau," approved April sixteenth, eighteen hundred and eighty, and the act entitled "An act supplementary to an act entitled 'An act for the establishment and maintenance of a mining bureau,' approved April

sixteenth, eighteen hundred and eighty," approved March twenty-first, eighteen hundred and eighty-five, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

§ 16. This act shall take effect and be in force from and after its passage.

STATE MONEYS—DEPOSITS.

To authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act.

(Stats. 1905, 323, ch. CCCVIII.)

§ 1. All moneys in the state treasury belonging to the state not immediately required to meet current expenditures may be deposited by the state treasurer to the credit of the state in such state or national bank, or banks, in the state, as the treasurer, with the approval of the governor and state controller, shall select for the safe-keeping of such deposits, and any sum so deposited shall be deemed to be in the state treasury; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided, and provided further, that such depositary bank or banks be selected from those agreeing to pay the highest rate of interest, not less than two per centum per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner, as the treasurer, with the approval of the governor and state controller, shall direct; provided, that not more than one tenth of the aggregate amount of state moneys available for deposit and on deposit shall be deposited in any one bank, and provided further, that such deposit shall not exceed twenty-five per centum of the paid-up capital, exclusive of reserve and surplus, of any depositary bank. Any and all bids may be rejected by the treasurer, with the approval of the governor and state controller, and new bids asked for. The expense of transportation of moneys to and from the state treasury to such depositaries shall be borne by such depositaries. Said deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the state treasurer, or upon presentation of a certificate of deposit properly indorsed.

§ 2. The interest to be paid by any such depositary bank shall be on the average daily balances of the state moneys kept on deposit therewith, and shall be paid and credited to the state monthly on the first day of each and every month, and such interest shall accrue to the general fund of the state treasury.

§ 3. For the security of the funds deposited by the state treasurer under the provisions of this act, there shall be deposited with the treasurer bonds of the United States, or of this state, or of any county, municipality or school district within this state, which bonds shall be approved by the governor, controller and treasurer, to an amount in value at least ten per centum in excess of the amount of the deposit with such bank or banks; and if in any case, or at any time, such bonds are not deemed satisfactory security to the governor, controller and treasurer, they may require such additional security as may be satisfactory to them. Said bonds or any part thereof may be withdrawn on the written consent of the governor, controller and treasurer; pro-

vided, that a sufficient amount of said bonds to secure said deposits shall always be kept in the treasury; and in the event that said bank or banks of deposit shall fail to pay such deposits or any part thereof on the demand of the state treasurer, or upon any presentation of a certificate of deposit properly indorsed, then it shall be the duty of the state treasurer to forthwith convert said bonds into money and to disburse the same according to law.

§ 4. The treasurer shall take from such depositary or depositaries a written contract, in duplicate, setting forth the conditions and terms upon which the funds of the state are deposited therewith, one of which shall be filed with the controller. One provision of said contract shall be that each depositary shall at the end of each month render to the treasurer a statement in duplicate showing the daily balances or amount of money of the state held by it during the month and the amount of the accrued interest thereon separately, one of which shall be filed by the treasurer with the controller. The treasurer shall annually on the first day of July furnish each depositary bank with a statement showing the amount and description of the bonds on deposit with him by such bank to secure state deposits.

§ 5. The treasurer, with the approval of the governor and controller, shall, if in his judgment it shall appear necessary for the security of the state, require said banks of deposit to give an indemnity bond, the sureties on which shall not be interested as stockholders in said bank or banks, to be approved by the governor, controller and treasurer, to secure the state against loss by any depreciation in value that may occur in such bonds held by him as security for the safe-keeping and prompt payment of the state moneys in such depositaries.

§ 6. The state treasurer shall not be responsible for any moneys deposited in a bank or in banks under the provisions of this act while the same remain there deposited with the consent of the governor and controller; but the treasurer shall be chargeable with the safe-keeping, management and disbursement of the bonds and certificates of deposit deposited with him as security for deposits of state moneys, and with the interests thereon, and the proceeds of any sale under the provisions of this act.

§ 7. At the time of depositing state money in any bank designated as a depositary the treasurer shall take a certificate or certificates of deposit made payable to the treasurer of state in such sum or sums as he shall deem advisable. Such certificate or certificates of deposit in the possession of the treasurer shall be deemed and counted as cash by the state board of examiners. Controller's warrants drawn upon the state treasury may be paid by such certificates of deposit when properly indorsed by the treasurer the same as in cash.

§ 8. All acts or parts of acts in conflict with this act are hereby expressly repealed.

§ 9. This act shall take effect on July first, nineteen hundred and five.

STATE OFFICERS—CONTRACTS, ETC., BY.

Concerning, confirming, and ratifying leases and other contracts made by any officer or boards of officers of this state.

(Stats. 1901, 601, ch. CXC.V.)

§ 1. All leases for terminal facilities made or executed by any state officer or board of state officers to any person, persons or corporation within two years prior to the passage of this act and which shall be on file in the office of the secretary of state on or before February fifteenth, nineteen hundred and one, are hereby recognized, approved and ratified, and the terms, covenants and conditions thereof shall bind the parties thereto, their successors and assigns, and the state of California.

§ 2. The lease of the lands known as China Basin in the city and county of San Francisco to the San Francisco and San Joaquin Valley Railway Company for terminal facilities, made on November twenty-first, nineteen hundred, by and between said company and the board of state harbor commissioners, is hereby approved and ratified, and the covenants, conditions and terms thereof shall bind the parties thereto, their successors and assigns, and the state of California.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

§ 4. This act shall take effect immediately.

STATE PRISONS.

To regulate and govern the state prisons of California.

(Stats. 1889, 404, ch. CCLXIV; amended 1905, 520, ch. CCCXCVIII; 1905, 724, ch. DLIX.)

§ 1. The state prisons of this state shall be known as the state prison at San Quentin, which shall have an official staff conforming to the laws of the state in relation to state prisons; and the state prison at Folsom, which shall have a similar staff and be similarly organized, and all the finances and accounts of the two prisons shall be kept separate and apart from each other.

§ 2. For the government and management of the California state prisons, there shall be appointed by the governor, by and under the advice of the senate, five directors, who shall hold their office for the term of ten years, from and after the date of such appointment; such appointments to be made as vacancies occur in the board as it now exists. In case of death or resignation of a director, his successor shall be appointed to fill the unexpired term of such director by the governor, by and with the advice of the senate. Each director shall subscribe an oath of office, which shall be indorsed on his commission, within ten days after receiving written notice of such appointment, and a duplicate of such oath shall also be filed with the secretary of state.

§ 3. At the first meeting of the board of directors in the year eighteen hundred and ninety, and annually thereafter, they shall elect one of their members president of the board, whose duty it shall be to preside at the meeting of the board, and to perform such other duties as may, from time to time, be prescribed by the rules and regulations for the government of the board.

§ 4. Three members of the board shall constitute a quorum for the transaction of all business, but no order of the board shall be valid unless concurred in by three or more members.

§ 5. It shall be the duty of the directors to determine the necessary officers and employees of the prisons other than those of the wardens and clerks, specifying their duties severally, and fixing their salaries; to prescribe rules and regu-

lations for the government of the prisons, and to revise and change the same from time to time as circumstances may require, and to board and lodge the officers and employees, or allow them a money commutation in lieu thereof; provided, the warden may make temporary rules, in cases of emergency, to remain in force until the succeeding meeting of the board. At least three of the directors shall visit the prisons once in each month, and oftener if necessary, at such time as they may select. The directors shall audit all claims for supplies, services, and expenses of officers and employees, and all other demands against the prison.

Second—To enter or cause to be entered on their journal by the clerks all official acts which shall be signed by at least three members of the board.

Third—On or before the first day of December of each year to report to the governor the condition of the prisons, together with detailed statements of receipts and expenditures, and such suggestions concerning the prisoners as may appear to be necessary and expedient.

Fourth—The board of directors shall also adopt rules and regulations not inconsistent with the constitution and the laws of the state of California for the government of the board, and may change the same at their pleasure.

Fifth—The board of directors shall have power to establish an office in San Francisco, and employ a secretary.

§ 6. The directors shall appoint a warden for each prison, who shall take and subscribe an oath or affirmation faithfully to discharge the duties of his office, as prescribed by law, and by the rules and regulations of the board of directors, and to enter into a bond to the state of California, in the sum of twenty-five thousand dollars, with two or more sufficient sureties, to be approved by the directors and the attorney-general of the state, conditioned to the faithful performance of such duties as such officer aforesaid, and he shall hold his office four years after such appointment; the first appointments after the adoption of this act to take place at the expiration of the present term of office of the present incumbents thereof, or when such office becomes vacant.

§ 7. The wardens shall reside at the state prisons to which they are respectively assigned, in houses provided and furnished at the expense of the state, as may be ordered by the board of directors, and it shall be their duty—

First—To fill all subordinate positions that may be created by order of the board of directors by appointment of suitable persons thereto.

Second—Under the order and direction of the board to prosecute all suits at law or in equity that may be necessary to protect the rights of the state in matters or property connected with the prisons and their management, such suits to be prosecuted in the name of the board of state prison directors.

Third—To supervise the government, discipline, and police of the prisons, and to enforce all orders and regulations of the board in respect to such prisons. A registry of convicts shall be kept by him, and in which shall be entered the name of each convict, the crime of which he is convicted, the period of his sentence, from what county sentenced, by what court sentenced, his nativity, to what degree educated, at what institution and under what system, an accurate description of his person, and whether he has been previously confined in a state prison in this or any other state, and if so, when and how he was discharged.

Fourth—He shall report to the governor, before the twentieth of each month,

the names of all prisoners whose terms are about to expire, giving in such report the terms of their sentences, the date of imprisonment, the amount of total credits to the date of such report, and the date when their service would expire by limitation of sentence.

Fifth—To perform such other duties as may be prescribed by the board of directors.

§ 7½. The governor, at the expiration of the term for which any prisoner has been sentenced, less the number of days allowed and credited to him, must order the release of such prisoner, by an order under his hand, addressed to the warden of the prison in which he has been confined, in such mode and form as he may deem proper, and with or without restoration to citizenship, according to his discretion, and if he order the release of such prisoner without restoration to citizenship, he may at any time thereafter, in his discretion, make a further order restoring to citizenship the prisoner so released. [New section added, Stats. 1905. **In effect immediately.**]

§ 8. The board of directors shall appoint a clerk for each prison, who shall take an oath of office, and enter into a bond to the state, with sureties satisfactory to the board, in the sum of ten thousand dollars, conditioned that they will faithfully discharge the duties required of them. The clerks shall hold their office for the period of four years after such appointments; the first appointments after the adoption of this act to take place at the expiration of the present term of office of the present incumbents thereof, or when such office becomes vacant.

§ 9. The clerks shall keep the accounts of the prisons to which they are severally appointed in such manner as to exhibit clearly all its financial transactions; and the clerks shall perform such other duties as may from time to time be required of them by the board of directors.

§ 10. No person shall be appointed to any office by the wardens, or be employed in the prisons on behalf of the state, who is a contractor or agent, or who is interested, directly or indirectly, in any business carried on therein; and no male person who is not a qualified elector of the state of California shall be appointed by the wardens to any office in or about the prisons, nor shall any be appointed or employed by virtue of this act who is in the habit of intemperate use of liquors, and a single act of intemperance shall justify his discharge or removal, and it shall be the duty of such warden to discharge such person.

§ 11. Wardens and clerks may be removed by the board of directors at any time for misconduct, incompetency, or neglect of duty; and all other officers and employees may be removed at any time at the pleasure of the wardens.

§ 12. The wardens shall receive a salary of not less than twenty-four hundred dollars, and not to exceed three thousand dollars, per annum, in the discretion of the board of directors.

§ 13. The clerks shall receive a salary not to exceed eighteen hundred dollars per annum, and all other officers and employees shall receive such compensation as the directors may deem just and equitable in each case.

§ 14. The board of directors are hereby authorized and required to contract

for provisions, clothing, medicines, forage, fuel, and all other staple supplies, needed for the support of the prisons for any period of time, not exceeding one year, and such contracts shall be limited to bona fide dealers in the several classes of articles contracted for. Contracts for such articles as the board may desire to contract for shall be given to the lowest bidder, at a public letting thereof, if the price bid is a fair and reasonable one, and not greater than the usual market value and prices. Each bid shall be accompanied by such security as the board may require, conditional upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond, with good and sufficient sureties, in such sum as the board may require, and to their satisfaction, that he will faithfully perform his contract. If the proper officer of the prison reject any article as not complying with the contract, or if a bidder fail to furnish the articles awarded to him when required, the proper officer of the prison may buy other articles of the kind rejected or called for, in the open market, and deduct the price thereof, over the contract price, from the amount due to the bidder, or charge the same up against him. Notice of the time, place, and conditions of the letting of contracts shall be given for at least two consecutive weeks in two newspapers printed and published in the city and county of San Francisco, and in one newspaper printed and published in the city of Sacramento, and in the county where the prison to be supplied is situated. If all the bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise, for such time and in such papers as they see proper, for proposals, and may so continue to renew the advertisement until satisfactory contracts are made; and in the mean time the board may contract with any one whose offer is regarded as just and equitable, or may purchase in the open market. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the same letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders, as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items, and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract, and who had not, in the opinion of the board, faithfully complied therewith.

§ 15. All moneys received or collected by the warden of San Quentin prison shall be reported to the state controller on the first day of each and every month in such form as the controller may require, and at the same time shall be paid into the general fund of the state treasury on the order of the controller, except so much thereof as shall be necessary to be paid into the jute revolving fund as required by the provisions of an act of the legislature approved March ninth, eighteen hundred and eighty-five, and amended March sixteenth, eighteen hundred and eighty-nine. All moneys received or collected by the warden of Folsom prison shall be reported to the

state controller on the first day of each and every month in such form as the controller may require and at the same time shall be paid into the state treasury to the credit of the Folsom state prison fund, excepting so much thereof as may be necessary to pay the expenses and money allowed discharged prisoners under the provisions of this act. The wardens shall require vouchers for all moneys by them expended and safely keep the same on file in their respective offices at the prisons. For all sums of money required to be paid other than for the uses above named, as well as for said uses when there is not sufficient money in the hands of the warden, drafts shall be drawn on the controller of state, signed by at least three of the directors, and the controller of state shall draw his warrant on the state treasurer who shall pay the same out of any moneys belonging to the state prison fund or appropriated for the use or support of the state prisons. The amount of all money retained by the wardens and the aggregate amount paid out shall be reported quarterly to the controller of state and the proper entries shall be made on the controller's books.

[See Stats. 1905, 382, ch. CCCXXVIII, amending Stats. 1899, relative to payments to state treasury.]

[§ 15a.] § 2. So much of the provisions of an act of the legislature, approved March seventeenth, eighteen hundred and ninety-nine, requiring the payment into the state treasury of all moneys belonging to the state, and all amendments to said act, in conflict with the provisions of this act, are hereby repealed.

[§ 15b.] § 3. This act shall take effect and be in force July first, nineteen hundred and five. [Amendment, Stats. 1905, 724.]

§ 16. All revenues of the prisons, unless herein otherwise provided, shall be paid to the wardens, who alone are authorized to receipt for the same and discharge from liability. When any sum of money is paid to the wardens, they shall cause the same to be properly entered on the books by the clerks.

§ 17. On payment of any moneys into the state treasury, as provided in this act, the wardens and state treasurer shall report to the controller of state the amount so paid, and the state treasurer shall give the wardens a receipt therefor, which receipt shall be filed with the controller. The wardens shall report to the controller of state the amount of money paid into said treasury by them during each month, and shall also report to said controller of state the amounts received and disbursed by them every three months, and during the period for which such report shall be made, which quarterly report shall be signed by the warden and at least three of the directors.

§ 18. All convicts may be employed by authority of the board of directors, under charge of the wardens respectively, and such skilled foremen as he may deem necessary in the performance of work for the state, or in the manufacture of any article or articles for the state, or the manufacture of which is sanctioned by law. At San Quentin no articles shall be manufactured for sale except jute fabrics. At Folsom after the completion of the dam and canal the board may commence the erection of structures for jute manufacturing purposes. The board of directors are hereby authorized to purchase from time to time such tools, machinery, and materials, and to direct the employment

of such skilled foremen as may be necessary to carry out the provisions of this section, and to dispose of the articles manufactured, and not needed by the state, for cash, at private sale, in such manner as provided by law.

§ 19. In the treatment of the prisoners, the following general rules shall be observed: Each convict shall be provided with a bed of straw, or other suitable material, and sufficient covering of blankets, and shall be supplied with garments of coarse substantial material, of distinctive manufacture, and with sufficient plain and wholesome food of such variety as may be most conducive to good health.

Second—No punishment shall be inflicted except by the order and under the direction of the wardens.

Third—The warden shall keep a correct account of all money and valuables upon the prisoner when delivered at the prison, and shall pay the amount, or the proceeds thereof, or return the same to the convict when discharged, or to his legal representative in case of his death; and in the case of the death of such convict without being released, if no legal representative shall demand such property within five years, the same shall be paid into the state prison fund.

Fourth—The rules and regulations prescribing the duties and obligations of the prisoners shall be printed and hung up in each cell and shop.

Fifth—Each convict, when he leaves the prison, shall be supplied with the money taken from him when he entered, and which he has not disposed of, together with any sum which may have been earned by him for his own account, allowed to him by the state for good conduct or diligent labor, or may have been presented to him from any source; and, in case the prisoner has not funds sufficient for present purposes, he shall be furnished with five dollars in money, a suit of clothes costing not more than ten dollars, and by the cheapest route to the place where sentenced from, if the prisoner desires to return there, or to any other place of the same cost; and he shall be entitled, if he so elect, to immunity from having his hair cut, or from being shaved, for three calendar months immediately prior to his discharge. It shall not be lawful for the officers of the prison to furnish, or permit to be furnished, to any one, for publication, the name of any prisoner about to be discharged. When the warden, and such other officers as may be designated by the directors to act with him in such cases, shall be of opinion that any convict is insane, they shall make proper examination, and if they remain of the opinion that such person is insane, the warden shall certify the fact to the superintendent of one of the state asylums for the insane, and shall forthwith send such convict to said asylum for care and treatment. If at the expiration of the term of sentence, the insane convict is still in the insane asylum, he shall be allowed to remain there until discharged cured. It shall be the duty of the warden, also, to send to the directors a copy of such certificate, and thereafter a statement as to his subsequent acts regarding the said insane convict. And it shall be the duty of the superintendent of the insane asylum to receive such insane convict and keep him until cured. It shall be his duty, upon receipt of such insane convict, to notify the directors of the fact, giving name, date, and where from, and from whose hands received. When, in the opinion of the superintendent, such insane convict is cured of insanity, it shall be his duty to immediately notify the directors thereof; and it shall be

his duty also to notify the warden of the prison from whence he was received, who shall immediately send for, take, and receive the said convict back into the prison, the time passed at the asylum counting as a part of such convict's sentence. Before discharging any convict who may be insane at the time of the expiration of his sentence, the warden shall first give notice, in writing to a judge of a superior court of the county in which the state prison may be located, over which he has control, of the fact of such insanity; whereupon said court shall forthwith make an order, and deliver the same to the sheriff of said county, commanding him to remove such insane convict and take him before said court. Upon the receipt of such order, it shall be the duty of said sheriff, to whom it is directed, to execute and return the same forthwith to the court by whom it was issued, and thereupon the said court shall cause proper examination to be made by medical experts, and if it shall satisfactorily appear that such convict is insane, said court shall order him to be confined in one of the insane asylums. The sheriff shall receive the same compensation as for transferring a prisoner to the state prison, and to be paid in the same manner. If any judge, after having been notified by the warden, shall neglect to cause such order to be made, as herein provided, or any such sheriff shall neglect to remove such insane convict, as required by the provisions of this section, it shall be the duty of the warden to cause such insane convict to be removed before a superior court of a county in which the state prison is located, in charge of an officer of the prison, or other suitable person, for the purpose of examination; and the cost of such removal shall be paid out of the state treasury, in the same manner as when removed by the sheriff, as herein provided.

§ 20. The state board of prison directors shall require of every able-bodied convict confined in a state prison as many hours of faithful labor in each and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the prison. Every convict who shall have no infraction of the rules and regulations of the prison or laws of the state recorded against him, and who performs in a faithful, orderly, and peaceable manner the duties assigned to him, shall be allowed from his term, instead and in lieu of the credits heretofore allowed by law, a deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of said term, and pro rata for any part of a year, where the sentence is for or more or less than a year. The mode of reckoning credits shall be as shown in the following table:

Number of years of Sentence.	Good Time Granted.	Total Good Time Made.	Time to be Served if Full Time is Made.
First year.....	2 months	2 months.....	10 months
Second year.....	2 months	4 months.....	1 year and 8 months
Third year.....	4 months	8 months.....	2 years and 4 months
Fourth year.....	4 months	1 year.....	3 years
Fifth year.....	5 months	1 year and 5 months.....	5 years and 7 months
Sixth year.....	5 months	1 year and 10 months.....	4 years and 2 months
Seventh year.....	5 months	2 years and 3 months.....	4 years and 9 months
Eighth year.....	5 months	2 years and 8 months.....	5 years and 4 months
Ninth year.....	5 months	3 years and 1 month.....	5 years and 11 months
Tenth year.....	5 months	3 years and 6 months.....	6 years and 5 months

And so on, through as many years as may be the term of the sentence. Each convict shall be held entitled to these deductions, unless the board of directors shall find that for misconduct or other cause he should not receive them. But if any convict shall commit any assault upon his keeper, or any foreman, officer, convict, or person, or otherwise endanger life, or shall be guilty of any flagrant disregard of the rules of the prison, or commit any misdemeanor, or in any manner violate any of the rules and regulations of the prison, he shall forfeit all deductions of time earned by him for good conduct before the commission of such offense, or that, under this section, he may earn in the future, or shall forfeit such part of such deductions as to the board of directors may seem just; such forfeiture, however, shall be made only by the board of directors after due proof of the offense and notice to the offender; nor shall any forfeiture be imposed when a party has violated any rule or rules without violence or evil intent, of which the directors shall be the sole judges. The board shall have power to restore credits forfeited, for such reasons as by them may seem proper.

§ 21. All criminals sentenced to the state prisons by the authority of the United States shall be received and kept according to the sentence of the court by which they were tried, and the prisoners so confined shall be subject in all respects and discipline and treatment as though committed under the laws of this state. The wardens are hereby authorized to charge and receive from the United States, for the use of the state, an amount sufficient for the support of each prisoner, the cost of all clothing that may be furnished, and one dollar per month for the use of the prisoner. No other or further charge shall be made by any officer for or on account of such prisoners.

§ 22. The board of directors shall have power to contract for the supply of gas and water for said [prisons], upon such terms as said board shall deem to be for the best interests of the state, or to manufacture gas, or furnish water themselves, at their option. They shall also have power to erect and construct, or cause to be erected and constructed, electrical apparatus or other illuminating works in their discretion, with or without contracting therefor, on such terms as they may deem just. The board shall have full power to erect any building or structure deemed necessary by them, or to alter or improve the same, and to pay for the same from the fund appropriated for the use or support of the prisons, or from the earnings thereof, without advertising or contracting therefor; provided, that no building or structure the cost of which will exceed five thousand dollars shall be erected or constructed without first obtaining the consent of the governor, secretary, and treasurer of the state, or a majority thereof. The board shall have power to give for meritorious service to any convict discharged, or about to be discharged, a sum in addition to that already allowed not exceeding ten dollars.

§ 23. No officer or employee shall receive, directly or indirectly, any compensation for his services other than that prescribed by the directors; nor shall he receive any compensation whatever, directly or indirectly, for any act or service which he may do or perform for or on behalf of any contractor, or agent, or employee of a contractor. For any violation of the provisions of this section, the officer, agent, or employee of the state shall be discharged from his office or service; and every contractor, or employee, or agent of a con

tractor engaged therein, shall be expelled from the prison grounds, and not again permitted within the same as a contractor, agent, or employee.

§ 24. No officer or employee of the state, or contractor, or employee of a contractor, shall, without permission of the board of directors, make any gift or present to a convict, or receive any from a convict, or have any barter or dealings with the prisoner. For every violation of the provisions of this section, the party engaged therein shall incur the same penalty as prescribed in section twenty-three.

§ 25. No officer or employee of the prison shall be interested, directly or indirectly, in any contract or purchase made or authorized to be made by any one for or on behalf [of] the prisons.

§ 26. There shall be printed annually for the use of the prisons five hundred copies of the annual report of the board of directors, and the clerk shall annually transmit to each of the state prisons in the United States one copy of such report.

§ 27. All the bonds of officers and employees under this act shall be deposited with the secretary of state.

§ 28. If any of the shops or buildings in which convicts are employed are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately, under the direction of the board of directors, by and with the advice and consent of the governor, attorney-general, and secretary of state, and the expenses thereof paid out of any funds in the state treasury not otherwise appropriated by law.

§ 29. The board of directors must report to the governor from time to time the names of any and all persons confined in the state prisons who, in their judgment, ought to be pardoned out and set at liberty on account of good conduct, or unusual term of sentence, or any other cause which in their opinion, should entitle the prisoner to pardon.

§ 30. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 31. This act shall take effect immediately.

The foregoing statute is treated as having entirely superseded Stats. 1880, 67, ch. LXXI.

Credits to convicts allowed and deducted

from term for good behavior.—Ex parte Clifton, 145 Cal. 186, 188, 78 Pac. Rep. 655.

Compensation of directors (Stats. 1880).—People vs. Chapman, 61 Cal. 262, 264.

STATE PRISONS—CALIFORNIA HEMP.

To authorize and empower the state board of prison directors to purchase California-grown hemp, to be used in the manufacture of grain bags, and to fix the price at which such bags shall be sold.

(Stats. 1901, 515, ch. CLX.)

§ 1. The state board of prison directors are authorized and empowered to purchase California-grown hemp, to be used in the manufacture of grain bags, and to pay for the same from the revolving fund created by law for the purchase of jute. The price for which grain bags made at said prison from hemp shall be sold shall be fixed by the state board of prison directors, in the same manner as the price of bags made from jute is now by law fixed by said board.

§ 2. This act shall take effect immediately.

STATE PRISONS—CRIMES AT.

Concerning the payment of the expenses and costs of the trial of convicts for crimes committed in the state prison, and to pay the costs of the trial of escaped convicts, and to pay for the expenses of coroner inquests in said prison.

(Stats. 1880, 43, ch. LVI.)

§ 1. The costs and expenses of all trials which have heretofore been had in the county in this state where the state prison is situated, for any crime committed by any convict in the state prison, and the costs of guarding and keeping such convict, and the execution of the sentence of said convict by said county, and the costs and expenses of all trials heretofore had for the escape of any convict from the state prison, and the costs and expenses of all coroner inquests heretofore had of any convict at the state prison by the county where said prison has been situated, shall be certified to by the county clerk of said county wherein said trials and inquests have been held to the board of state prison directors for their approval, and after such approval they shall pay the same out of the money appropriated for the support of the state prison, to the county treasurer of said county where said trials have been had; provided, that this act shall not apply to any costs or expenses incurred since January first, eighteen hundred and seventy-three.

§ 2. This act shall only apply to cases which have not been settled for by the state.

§ 3. This act shall take effect immediately.

STATE PRISONS—CONVEYANCES BY PRISONERS.

(Stats. 1862, 496, ch. CCCLXXVIII.)

§ 1. That any deed, or other instrument of writing, executed and acknowledged before a notary public and two reputable and disinterested witnesses, by any prisoner confined in the state penitentiary, and done with the free will and accord of such prisoner, shall be deemed and taken to have the same validity, force, and effect, as if the party so executing the same had not been under sentence, or confined in prison, at the time of the execution or acknowledgment of such deed, or other instrument of writing; and it shall be the duty of said notary public to examine the said party, separate and apart from all persons, and to set forth, in his certificate of acknowledgment, that he had so examined the said party separately and apart, and that said party acknowledged that he did execute the same freely, voluntarily, and without fear, or compulsion, or undue influence, and for the uses and purposes therein mentioned.

Compare with **KERR'S CYC. PEN. CODE** §§ 673-675.

STATE PRISONS—FOLSOM.

(Stats. 1873-4, 785, ch. DLI.)

To provide for the erection and maintenance of a branch state prison at Folsom. The appropriation under this act was one hundred and seventy-five thousand dollars. The prison management is now embraced

in the act hereinbefore inserted (1889, 404), as amended 1905.

See *tit. Coroners and Physicians; Convicts; Marin County; Prisons.*

STATE PRISONS—FOLSOM—INSANE.

To provide for the erection at Folsom state prison of a building for the accommodation of the insane prisoners, and making an appropriation therefor.

(Stats. 1903, 519, ch. CCCLXXI.)

§ 1. There shall be erected upon the lands belonging to the state in connection with the state prison at Folsom a building of sufficient capacity to accommodate the insane prisoners of the state prisons of the state, the same to be constructed under the direction of the board of state prison directors, upon plans submitted to and approved by the state commission in lunacy, which will have inspectory power over the institution when completed. Upon the completion of said building all insane prisoners now confined in the state prisons and all prisoners convicted of a felony in any state hospital shall by the proper authorities be transferred thereto.

§ 2. The sum of twenty-five thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the erection and furnishing of said building.

§ 3. The controller of state shall draw warrants from time to time, as the work shall progress, in favor of the board of prison directors, upon their requisition for the same, and the state treasurer is hereby directed to pay the same.

§ 4. This act shall take effect and be in force from and after its passage.

See post tit. **State Prisons—Insane.**

STATE PRISONS—INSANE CONVICTS.

To establish a state hospital for the care, custody and maintenance of insane convicts and certain other insane persons charged with the commission of a felony, near Folsom, California, and to provide for the government and management thereof, and to direct the expenditure of money heretofore appropriated by an act entitled "An act to provide for the erection at Folsom state prison of a building for the accommodation of insane prisoners, and making an appropriation therefor," approved March twenty-sixth, nineteen hundred and three, and declaring that the same may be used and expended for the purposes of this act, and making an additional appropriation of fifteen thousand dollars for certain improvements.

(Stats. 1905, 229, ch. CCLVII.)

§ 1. There shall be established on the land belonging to the state at the Folsom state prison an institution for the care of such convict and other insane as may be hereinafter described.

§ 2. The said institution shall be known as the Folsom State Hospital, and is hereby declared to be a corporation.

§ 3. The said state hospital shall have a board of five managers or trustees who shall be the members of the state commission in lunacy. Said trustees or managers shall be hereafter termed managers.

§ 4. The board of managers in conjunction with the board of state prison directors shall select a site for the said state hospital.

§ 5. As soon as possible after the selection of a site, the said board of managers shall with the co-operation of the board of state prison directors, proceed with the erection of a building or buildings for the purposes of said hospital.

§ 6. No person shall be admitted to said hospital except convicts now or hereafter confined in present state hospitals for the insane, who may be transferred directly by the state commission in lunacy; and such insane persons charged with the commission of a felony who are now or who may hereafter be confined in any of the present state hospitals for the insane and whose transfer is deemed by the state commission in lunacy to be for the best interests of said hospital and the public, who may be directly transferred by the state commission in lunacy; and such convicts as are now or may hereafter become insane in the California state prisons, who may be committed to this hospital in the manner now provided by the Penal Code for the commitment of insane convicts.

§ 7. As soon as the board of managers shall deem it necessary for the proper completion, furnishing and managing of said hospital, and as often thereafter as a vacancy occur[s], they shall appoint a medical superintendent. The medical superintendent must appoint, by and with the consent of the board of managers, such officers and employees as the board may deem necessary. The medical superintendent and other officers and employees shall receive such compensation as may be fixed by the board of managers, in no case to exceed the salaries paid in other state hospitals for the insane for similar service.

§ 8. Except as herein otherwise provided, and except as inconsistent or unnecessary by reason of the fact that the board of managers shall be composed of the members of the state commission in lunacy, the said state hospital and its managers and officers shall be governed by and be subject to, and the said state hospital shall possess all of the rights and be affected by all the limitations and requirements of the provisions of chapter one of title five of part three of the Political Code.

§ 9. The sum of twenty-five thousand dollars heretofore appropriated by the provisions of an act entitled "An act to provide for the erection at Folsom state prison of a building for the accommodation of insane prisoners, and making an appropriation therefor," approved March twenty-sixth, nineteen hundred and three, and not expended, is hereby reappropriated and directed to be applied to the construction and furnishing of said Folsom state hospital. Said appropriation shall be as available for all the purposes of this act as if the same had been specially made therefor. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the further sum of fifteen thousand dollars, to be used for sewer, water, and light connections, and for building, furnishing, and equipping quarters for officers and employees, stable, and such other outbuildings as may become necessary.

§ 10. All plans, descriptions, bills of material, specifications and estimates requisite, necessary, proper or convenient for any of the purposes aforesaid, shall receive the sanction of a majority of the state commission in lunacy,

who shall cause an entry to be made in their minutes that such plans, descriptions, bills of material, specifications and estimates have been approved, and it shall not be necessary to obtain the approval or sanction of any other board, officer or person, and the appropriation made by this act is hereby exempted from the provisions of that certain act entitled "An act to regulate contracts on behalf of the state, in relation to erections and buildings" approved March twenty-third, eighteen hundred and seventy-six, and all amendments thereto, All bills shall first be audited by the board of managers, and approved by the state board of examiners, before being allowed, and this act shall be exempt from the provisions of any other act or acts requiring the sanction or approval of any other person, officer or board not herein specially mentioned.

§ 11. The controller of state is hereby authorized to draw his warrant from time to time, as the work shall progress, in favor of the said board of managers, upon their requisition for the same; and the state treasurer is hereby directed to pay the same.

§ 12. All acts and parts of acts in conflict herewith are hereby repealed.

§ 13. This act shall take effect and be in force from and after its passage.

STATE PRISONS—JUTE FUND.

Making an appropriation for the establishment of a permanent fund for the purchase of jute, to be manufactured at the state prison at San Quentin.

(Stats. 1885, 53, ch. XLVIII.)

§ 1. The sum of forty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to provide and maintain a permanent revolving fund for the purchase of jute for the state prison at San Quentin; all moneys taken therefrom to be used exclusively in payment for jute to be used in manufacturing in said state prison; and so much of the money, received from the sale of any goods manufactured from said jute, shall be returned to the said revolving fund, so that the fund shall contain forty thousand dollars before any of the proceeds from the sale of said manufactured goods are used for any other purpose than the purchase of jute.

§ 2. This act shall take effect immediately.

See next following act.

STATE PRISONS—JUTE GOODS.

Fixing the price and conditions of sale at which jute goods shall be sold by the state.

(Stats. 1893, 54, ch. XLII; amendment 1905, 532, ch. CDIV.)

§ 1. It shall be the duty of the state board of prison directors, from time to time, to fix the price and to give public notice of the same, at which jute goods shall be sold by the state, but at no time prior to the fifteenth day of May of each year shall the price fixed be more than one cent per bag in excess of the net cost of producing the same exclusive of prison labor. [Amendment, Stats. 1905, 532.]

§ 2. The state board of prison directors shall prescribe the terms and conditions on which the said goods shall be sold, and until the fifteenth day of May

of each year shall sell the same only to consumers of bags; but no order before said date for any one individual or firm or corporation shall be valid for more than five thousand grain bags, except on request of the warden and the unanimous approval of the state board of prison directors. If any bags remain unsold after the fifteenth day of May of each year, the board of prison directors may sell the same to such persons and in such quantities and on such terms and conditions as they shall deem for the best interests of the state up to the fifteenth day of October of each year. [Amendment, Stats. 1905, 532.]

§ 3. All orders for jute goods filed with the board of prison directors prior to the fifteenth day of May of each year, must be accompanied by an affidavit setting forth that the amount of goods contained in the order are for the individual and personal use of the applicant. Said affidavit to be subscribed and sworn to before a notary public, or justice of the peace residing in the township in which the applicant resides; provided, that any applicant, who shall falsely and fraudulently procure jute goods under the provisions of this act, shall be guilty of a misdemeanor. [Amendment, Stats. 1905, 532.]

§ 4. This act shall take effect and be in force immediately from and after its passage. [Amendment, Stats. 1905, 532.]

STATE PRISONS—ROADS.

Directing the state prison directors of the state of California to employ at least twenty prisoners in the construction of roads to the state prisons at San Quentin and at Folsom.

(Stats. 1903, 127, ch. CXVI.)

§ 1. The state prison directors of the state of California are hereby authorized and directed to employ at least twenty prisoners daily during fair weather, in the construction and repair of such public roads as have been or shall hereafter be laid out or opened by the board of supervisors of Marin County, and which extend from San Quentin state prison, or the grounds surrounding the same, to Point Tiburon, San Rafael, and all railroad stations in Marin County which lie in the neighborhood of the said state prison; providing, that no work shall be done by such prisoners beyond a point six miles distant from said prison buildings, and also to employ at least twenty prisoners under like conditions on roads extending from the state prison at Folsom in Sacramento County or connecting therewith; providing, that no work shall be done by such prisoners beyond a point six miles distant from said prison building.

§ 2. This act shall take effect and be in force from and after its passage.

Former legislation on this subject will be found in Stats. 1891, 222, ch. CLIX; 1893, 141, ch. CXXI; 1897, 6, ch. VIII.

STATE PRISONS—ROCK CRUSHING.

Providing for the erection and operation of rock-crushing plants at the state prisons, for the preparation of highway material for the benefit of the people of the state, and providing for the necessary advances and appropriation of money to carry out said work.

(Stats. 1895, 274, ch. CCVIII.)

§ 1. The governor of the state, the state prison directors, and the bureau of highways (or if the latter shall not be established, then and in that case the two first named) shall when satisfied that fifty thousand cubic yards of prepared road or highway metal, as hereinafter described, will be taken for highway purposes, purchase, establish, and operate at one or both of the state prisons, a rock or stone crushing plant, to be operated by convict labor and by the application of power under control of the state prison directors, and with such free labor as is necessary for superintendence and direction, to crush rock or stone into road metal for highway purposes, of different and necessary degrees of fineness; provided, that the authority and direction hereby and herein conferred and given, shall not be exercised or employed until the governor and the state prison directors are satisfied that transportation can be had for such highway metal for highway purposes at just and reasonable rates, and so as to justify the setting up and operation herein provided for of said plant.

§ 2. When such plant described in section one is set up and operated there shall be taken into account in ascertaining the cost of producing highway metal therefrom, only the cost of necessary explosives, oil, fuel, tools, and machinery exclusive of the plant itself, repairs, superintendence, and direction, and the preparation and maintenance of beds, boxes, crates, or other unloading devices for carriage and delivery from cars of said highway metal.

§ 3. To said cost of production so ascertained, as set out in section two, there shall be added for and to each and every cubic yard of highway metal so produced, ten per centum, and the result or product of such addition shall be the sale price of such metal delivered from the plant free on board of the cars or other vehicles of transportation.

§ 4. Said ten per centum shall, as realized, and not less frequently than semi-annually, be paid into the state treasury, until there shall have been paid in the full sum of twenty-five thousand dollars, and thereafter said percentage shall be reduced to five per centum, and the same as realized shall be paid into the fund for the support of the state prisons.

§ 5. The state prison directors are hereby authorized to lease railroad cars with equipment suitable for the rapid and economical handling and delivery of highway material prepared as aforesaid, whenever in their judgment the interests of the people of the state will be conserved thereby in the matter of highway construction by the use of such highway metal so produced, as in this act provided. The cost of such leasing shall in such case be carried into the cost of production described in section two.

§ 6. The sum of thirty thousand dollars is hereby advanced by the state, for the purposes of this act, and said sum is hereby appropriated out of the general fund of the treasury, subject to the demand of the state prison directors; and the state controller shall, on presentation of such demand, in writing, draw his warrant upon the treasurer for the said sum of money in behalf of said state prison directors, and the state treasurer shall on presentation of such warrant, pay the same. Twenty-five thousand dollars of said sum of money so advanced and appropriated shall be returned to the fund from which drawn, as is specified and directed in this act.

§ 7. The sum of five thousand dollars is hereby set apart out of the money

so appropriated in the previous section, to and for the usage of the state prison directors, to provide and maintain a permanent revolving fund for the purchase of tools, machinery, and other material and appliances, exclusive of the establishment of the plant described in this act, to be used in the process of crushing and handling rock or stone at the state prisons for the purposes contemplated and set out in this act. All money taken from said revolving fund shall be used exclusively in payment for such supplemental machinery, tools, material, and appliances necessary to the proper quarrying, handling, and preparing of highway material at said state prisons; and so much of the money received for sale of highway metal as shall be necessary to that end shall be returned to said revolving fund as is needed to keep the same constantly at the said figure of five thousand dollars.

§ 8. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. This act shall take effect and be in force from and after its passage.

See next following statute.

STATE PRISONS—ROCK-CRUSHING.

To regulate and govern the operation of the rock-crushing plant at the state prison at Folsom, to provide for the sale of crushed rock, and the disposition of the revenues derived therefrom.

(Stats. 1897, 99, ch. XCVII.)

§ 1. The state board of prison directors shall regulate, govern, and have full control of the rock or stone crushing plant established at the state prison at Folsom, the product thereof, the revenues derived therefrom, and all appropriations of money therefor.

§ 2. The plant shall be operated by convict labor, and by the application of the mechanical and water power belonging to the state prison at Folsom, together with such free labor as the state board of prison directors may deem necessary for superintending, directing, and guarding the convicts employed thereon.

§ 3. The state board of prison directors are hereby empowered and authorized to sell and to otherwise dispose of the crushed-rock product of the said plant; provided, that in all cases, preference shall be given to orders received from the bureau of highways for crushed rock for road metal for highway purposes.

§ 4. The sale price of all crushed rock sold for road metal for highway purposes shall be the cost of production, with ten per centum added, delivered on board cars or other vehicles of transportation at the rock-crushing plant; provided, that no rock shall be sold for highway or other purposes for a less price than thirty cents per ton.

§ 5. The cost of production shall be ascertained by estimating the cost of explosives, oil, fuel, tools, repairs, free labor, supplementary machinery, the preparation and maintenance of beds, boxes, crates, or other unloading devices for carriage to and delivery from cars, of said crushed rock, the leasing of railroad cars, and the cost of such other materials, supplies, and expenses as

may be required and used in producing each ton of crushed rock ready for sale delivery.

§ 6. The state board of prison directors are hereby authorized to lease railroad cars, with equipments suitable for the rapid and economical handling and delivery of crushed rock, prepared as aforesaid, whenever in their judgment the interests of the people of the state will be conserved thereby, in the matter of highway construction, by the use of said crushed rock. The cost of said leasing shall be carried into the cost of production described in section five.

§ 7. The amount of five thousand dollars heretofore appropriated is hereby set apart to and for the usage of the state board of prison directors, to provide and maintain a permanent revolving fund for the purpose of operating and maintaining the rock-crushing plant at Folsom prison. The money taken from said revolving fund shall be used exclusively for operating and maintaining the said rock-crushing plant. So much of the money received from the sale of crushed rock as shall be necessary to that end, shall be returned to said revolving fund, as it is needed to keep the same constantly at the said figure of five thousand dollars.

§ 8. Whenever the revolving fund shall be replenished, and there shall be a surplus, or balance, over the amount appropriated, this surplus, or balance, shall be paid, not less frequently than semiannually, into the state treasury, to the credit of the fund known as "The State Prison Fund of Folsom Prison," for the use and support of Folsom prison.

§ 9. The clerk of the state prison at Folsom shall keep such records, books, and accounts as may be necessary to at all times clearly exhibit the financial business, and other transactions of the said rock-crushing plant. All such records, books, and accounts shall be kept separate and distinct from those relating to other prison affairs.

§ 10. For all sums of money herein required to be paid, drafts shall be drawn on the controller of state, signed by at least three members of the state board of prison directors. Said drafts shall be sent to the state board of examiners, to be by them approved, and after approval by said state board of examiners, the controller of state shall draw his warrant in behalf of said state board of prison directors, on the state treasurer, who shall pay the same, on presentation of such warrant; provided, that the state board of examiners is hereby expressly prohibited from approving of any of said drafts until the same are presented with itemized statements, showing specifically the services rendered, by whom performed, time employed, distance traveled, and necessary expenses thereof; if for articles purchased, the said statement shall give the name of each article, together with the price paid for each, and of whom purchased, together with the date of purchase.

§ 11. If any of the buildings, machinery, or structures appertaining to or comprising the said rock-crushing plant are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately, under the direction of the state board of prison directors, by and with the consent solely of the governor, the attorney-general, and the secretary of state, and the expenses thereof, not to exceed in amount the sum of ten thousand dollars, shall

be paid out of any funds in the state treasury not otherwise appropriated by law, and the provisions of no other act shall apply to or govern or limit this section, or any of the powers or duties herein conferred.

§ 12. The state board of prison directors are hereby authorized and empowered to perform such other acts and duties as may be necessary to carry out the full intent and meaning of this act.

§ 13. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 14. This act shall take effect immediately.

See last preceding statute.

STATE PROPERTY—INVENTORIES.

See tit. Public Property.

STATE ROADS.

See tit. Roads and Highways.

STATE SUPERINTENDENT.

See tit. Schools.

STATE TREASURER—CLERK.

See Stats. 1895, 89, ch. XCVII. See tit. Board of Examiners.

STATE VETERINARIAN.

See tit. Animals—Protection of.

STATE VITICULTURAL COMMISSION.

See tits. State Analyst; Viticultural Commission.

STATE WARRANTS—LOST.

To provide for the payment of [by] the controller of state's warrants which have been lost or destroyed previous to payment by the state treasurer.

(Stats. 1891, 294, ch. CCXV.)

§ 1. Whenever any warrant legally drawn by the controller of state shall have been lost or destroyed before the same has been paid by the state treasurer, the amount due thereon may be recovered by the legal owner or custodian thereof, by filing with the controller of state,—

First. An affidavit setting forth the fact of the loss or destruction of such state warrant, giving the number, date, amount, and name of the payee, together with all material facts relative to the loss or destruction of the same.

Second. A bond of indemnity, with two good and sufficient sureties, in double the amount of the face of the particular warrant, which bond shall be referred to the attorney-general and controller of state for approval or rejection.

§ 2. It shall be the duty of the attorney-general and of the controller of state to examine and pass upon the sufficiency of the said bond, and to approve

or reject the same, within thirty days after it shall have been filed with the controller of state.

§ 3. After the filing of the approved bond, the controller of state is hereby authorized and directed to issue and deliver to the legal owner or claimant, on demand, a duplicate warrant for the full amount of the original warrant, and the treasurer of state is hereby authorized and directed to pay the duplicate, in lieu of the original warrant.

§ 4. The controller and treasurer shall each make the proper entries on their books, showing such warrants to have been lost or destroyed, and the issuance of duplicate warrants in lieu thereof.

STEAMSHIP COMPANIES.

See tit. **Emigration.**

STENCILS.

See tits. **Fruit, Marks and Brands; Labels.**

STENOGRAPHER FOR GOVERNOR.

See tit. **Governor.**

STOCKTON CITY—R. B. LANE.

To ratify and confirm ordinance number sixty-four, passed by the city council of the city of Stockton and approved by the acting mayor of said city on the eighth day of December, anno Domini eighteen hundred and seventy-seven.

(Stats. 1877-8, 201, ch. CLXIX.)

§ 1. Whereas, the city council of the city of Stockton passed an ordinance, which was approved by the acting mayor of said city on the eighth day of December, anno Domini eighteen hundred and seventy-seven, which ordinance is in words and figures following: Ordinance number sixty-four, authorizing the receipt and disposal of certain lands. The mayor and city council of the city of Stockton do ordain as follows: § 1. The city of Stockton hereby agrees to receive from R. B. Lane a deed in due form of law, conveying to the city of Stockton that certain piece, parcel, or tract of land situate, lying and being in the said city of Stockton, and known and described on the official maps and plats thereof as being that certain portion of block number nine and one half, south of Mormon Channel, described as follows, viz.: Commencing for the same at a point on the northeast corner of lot number three, in said block number nine and one half, south of Mormon Channel, and running thence north one hundred feet to the northeast corner of said block; thence west one hundred feet; thence southeasterly in a direct line to the point of beginning. § 2. The president of this council, as acting mayor of said city of Stockton, is hereby authorized to receive said deed, and to cause the same to be recorded in the office of the county recorder of San Joaquin County, state of California. § 3. In consideration of the execution and delivery of said deed by said Lane, and of the corporate benefit thereby secured, the city of Stockton hereby agrees

to convey to the said R. B. Lane, by proper deed, the following piece, parcel, or tract, of block number five, south of Mormon Channel, in said city of Stockton, and described as follows, viz.: Commencing for the same at a point on the northeast corner of lot number five, in said block number five, south of Mormon Channel; thence running south one hundred feet to the northwest corner of lot number fifteen, in said block number five; thence easterly along the north line of said lot number fifteen one hundred feet; thence northwesterly in a direct line to the point of beginning. The conveyance by the city of Stockton, in section three hereof named, shall be executed in the corporate name aforesaid, and have the seal of the corporation thereto affixed; and the president of this council, as acting mayor of said city, is hereby empowered and directed to affix the corporate name and the common seal aforesaid to such deed, and to acknowledge and deliver the same to said R. B. Lane, and the said deed shall be in all other respects sufficient to pass the title of the city of Stockton in and to the premises described therein to the grantee aforesaid. Passed the third day of December, anno Domini eighteen hundred and seventy-seven. J. Salz, president of city council, acting mayor; Julius Steiny, city clerk. It is therefore enacted that said ordinance is hereby ratified and confirmed, and that the conveyance made under and pursuant to the terms of said ordinance, and the exchange of real property therein provided for, are hereby ratified and confirmed.

See tit. **Mormon Channel**, ante.

STOCKTON STATE HOSPITAL—ADDITIONAL LAND.

To appropriate forty thousand dollars for the purchase of additional land for the use of the Stockton state hospital.

(Stats. 1905, 797, ch. DXCVII.)

§ 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of forty thousand dollars, to be paid on the order of the board of managers of the Stockton state hospital, for the purchase of additional land for the use of the Stockton state hospital.

§ 2. Any land so purchased by said board of managers under the provisions of this act shall be sufficiently near to said hospital that it can be conveniently used for farming, or agricultural purposes in connection therewith.

§ 3. The state board of examiners shall examine, audit, and allow all demands arising under this act, and the acts herein mentioned, and the state controller shall thereupon draw his warrant therefor, payable out of the general fund, and the state treasurer is hereby authorized to pay the same.

§ 4. In no case shall the board of managers of said hospital use any moneys herein specifically appropriated for any purpose other than the one for which such appropriation is made.

§ 5. This act shall take effect from and after July first, nineteen hundred and five.

See tit. **Insane**.

STREET LAW.

To provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities.

(Stats. 1885, 147, ch. CLIII; amended 1887, 148, ch. CXXX; 1889, 157, ch. CLI; 1891, 116, ch. CXIV; 1891, 196, ch. CXLVII; 1891, 461, ch. CCXLIV; supplemented 1893, 33, ch. XXI (Bonds); amended 1893, 89, ch. LXXIX; 1893, 172, ch. CXLIV; 1899, 23, ch. XXII; 1903, 88, ch. LXXX; 1905, 15, ch. XIX; 1905, 63, ch. LXVII.)

PART I.

§ 1. All streets, lanes, alleys, places, or courts, in the municipalities of this state now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and held to be open public streets, lanes, alleys, places, or courts, for the purposes of this act, and the city council of each municipality is hereby empowered to establish and change the grades of said streets, lanes, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in section two of this act, under the proceedings hereinafter described.

§ 2. Whenever the public interest or convenience may require, the city council is hereby authorized and empowered to order the whole, or any portion, either in length or width, of the streets, avenues, lanes, alleys, courts, or places of any such city graded or regraded, to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, graveled or regraveled, piled or repiled, capped or recapped, oiled or reoiled, sewerred or resewerred, and to order sidewalks, manholes, culverts, bridges, cesspools, gutters, tunnels, curbing, and crosswalks to be constructed therein, or to order breakwaters, levees, or walls of rock, or other material, to protect the same from overflow or injury, and to order any other work to be done which shall be necessary to complete the whole or any portion of said streets, avenues, sidewalks, lanes, alleys, courts, or places, and it may order any of the said work to be improved; and also to order a sewer or sewers, with outlets, for drainage or sanitary purposes, in, over, or through any right of way granted or obtained for such purpose; provided, that whenever the grade of a street, avenue, lane, alley, court, or place shall hereafter be changed, the petition of the owners of a majority of the feet fronting thereon, asking for grading the same to the new grade, shall be a condition precedent to the ordering of such grading to be done. [Amendment, Stats. 1905, 15. **In effect immediately.**]

§ 3. Before ordering any work done or improvement made, which is authorized by section two of this act, the city council shall pass a resolution of intention so to do, and describing the work, which shall be posted conspicuously for two days on or near the chamber door of said council, and published by two insertions in one or more daily, semiweekly, or weekly newspapers published and circulated in said city, and designated by said council for that purpose. The street superintendent shall thereupon cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than one hundred feet in distance apart, but not less than three in all, or when the work to be done is only upon an entire crossing or any part thereof, in front of

each quarter block and irregular block liable to be assessed, notices of the passage of said resolution. Said notice shall be headed "Notice of Street Work," in letters of not less than one inch in length, and shall, in legible characters, state the fact of the passage of the resolution, its date, and briefly the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for six days in one or more daily newspapers published and circulated in said city, and designated by said city council, or in cities where there is no daily newspaper, by one insertion in a semiweekly or weekly newspaper so published, circulated and designated. In case there is no such paper published in said city, said notice shall be posted for six days on or near the chamber door of said council, and in two other conspicuous places in said city, as hereinafter provided. The owners of a majority of the frontage of the property fronting on said proposed work or improvement, where the same is for one block or more, may make a written objection to the same within ten days after the expiration of the time of the publication and posting of said notice, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and such objections so delivered and indorsed shall be a bar for six months to any further proceedings in relation to the doing of said work or making said improvements, unless the owners of the one half or more of the frontage, as aforesaid, shall meanwhile petition for the same to be done. At any time before the issuance of the assessment roll, all owners of lots or lands liable to assessment therein, who, after the first publication of said resolution of intention, may feel aggrieved, or who may have objections to any of the subsequent proceedings of said council in relation to the performance of the work mentioned in said notice of intention, shall file with the clerk a petition of remonstrance, wherein they shall state in what respect they feel aggrieved, or the proceedings to which they object; such petition or remonstrance shall be passed upon by the said city council, and its decision therein shall be final and conclusive. But when the work or improvement proposed to be done is the construction of sewers, manholes, culverts, or cesspools, crosswalks, or sidewalks, curbs and gutters, and the objection thereto is signed by the owners of a majority of the frontage liable to be assessed for the expense of said work, as aforesaid, the said city council shall, at its next meeting, fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections, by depositing a notice thereof in the post-office of said city, postage prepaid, addressed to each objector, or his agent, when he appears for such objector. At the time specified said city council shall hear the objections urged, and pass upon the same, and its decisions shall be final and conclusive, and the said bar for six months to any further proceedings shall not be applicable thereto. And when not more than two blocks, including street crossings, remain ungraded to the official grade, or otherwise unimproved, in whole or in part, and a block or more on each side upon said street has been so graded or otherwise improved, or when not more than two blocks at the end of a street remain so ungraded or otherwise unimproved, said city council may order any of the work mentioned in this act to be done upon said intervening ungraded or unimproved part of said street, or at the end of a street, and said work upon said intervening part, or

at the end of a street, shall not be stayed or prevented by any written or other objection unless such council shall deem proper. And if one half or more in width or in length, or as to grading, one half or more of the grading work of any street lying and being between two successive main street crossings, or if a crossing has been already partially graded or improved, as aforesaid, said council may order the remainder improved, graded or otherwise, notwithstanding such objections of property owners. At the expiration of twenty days after the expiration of the time of said publication by said street superintendent, and at the expiration of twenty-five days after the advertising and posting, as aforesaid, of any resolution of intention, if no written objection to the work therein described has been delivered, as aforesaid, by the owners of a major frontage of the property fronting on said proposed work or improvement, or if any written objection purporting to be signed by the owners of a major frontage is disallowed by said council, as not of itself barring said work for six months, because in its judgment, said objection has not been legally signed by the owners of a majority of said frontage, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done, or improvement to be made, which is authorized by this act; which order, when made, shall be published for two days, the same as provided for the publication of the resolution of intention. Before passing any resolution for the construction of said improvements, plans and specifications and careful estimates of the costs and expenses thereof shall be furnished to said city council, if required by it, by the city engineer of said city; and for the work of constructing sewers, specifications shall always be furnished by him. Whenever the contemplated work of improvement, in the opinion of the city council, is of more than local or ordinary public benefit, or whenever, according to estimate to be furnished by the city engineer, the total estimated costs and expenses thereof would exceed one half the total assessed value of the lots and lands assessed, if assessed upon the lots or land fronting upon said proposed work or improvement, according to the valuation fixed by the last assessment roll whereon it was assessed for taxes for municipal purposes, and allowing a reasonable depth from such frontage for lots or lands assessed in bulk, the city council may make the expense of such work or improvement chargeable upon a district, which the said city council shall, in its resolution of intention, declare to be the district benefited by said work or improvement, and to be assessed to pay the costs and expenses thereof. Objections to the extent of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the costs and expenses thereof, may be made by interested parties, in writing, within ten days after the expiration of the time of the publication of the notice of the passage of the resolution of intention. The city clerk shall lay said objections before the city council, which shall, at its next meeting, fix a time for hearing said objections not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections by depositing a notice thereof in the post-office of said city, postage prepaid, addressed to each objector. At the time specified the city council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. If the objections are sustained, all proceedings shall be stopped; but proceedings may be immediately again commenced by giving

the notice of intention to do the said work or make said improvements. If the objections are overruled by the city council, the proceedings shall continue the same as if such objections had not been made. [Amendment, Stats. 1905, 64-66; in effect after sixty days.]

§ 5. Before the awarding of any contract by the city council for doing any work authorized by this act, the city council shall cause notice, with specifications, to be posted conspicuously for five days on or near the council chamber door of said council, inviting sealed proposals or bids for doing the work ordered, and shall also cause notice of said work inviting said proposal, and referring to the specifications posted or on file, to be published for two days in a daily, semiweekly, or weekly newspaper published and circulated in said city, designated by the council for that purpose, and in case there is no newspaper published in said city, then it shall only be posted as hereinbefore provided. All proposals or bids offered shall be accompanied by a check payable to the order of the mayor of the city, certified by a responsible bank, for an amount which shall not be less than ten per centum of the aggregate of the proposal, or by a bond for the said amount and so payable, signed by the bidder and by two sureties, who shall justify, before any officer competent to administer an oath, in double the said amount, and over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council, and said council shall, in open session, examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check or bond satisfactory to the council. The city council may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent and unfaithful in any former contract with the municipality, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid, which award shall be approved by the mayor or a three-fourths vote of the city council. If not approved by him, or a three-fourths vote of the city council, without further proceedings, the city council may readvertise for proposals or bids for the performance of the work as in the first instance, and thereafter proceed in the manner in this section provided, and shall thereupon return to the proper parties the respective checks and bonds corresponding to the bid so rejected. But the checks accompanying such accepted proposals or bids shall be held by the city clerk of said city until the contract for doing said work, as hereinafter provided, has been entered into, either by said lowest bidder or by the owners of three fourths part of the frontage, whereupon said certified check shall be returned to said bidder. But if said bidder fails, neglects or refuses to enter into the contract to perform said work or improvement, as hereinafter provided, then the certified check accompanying his bid and the amount therein mentioned, shall be declared to be forfeited to said city, and shall be collected by it and paid into its fund for repairs of streets; and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into said fund. Notice of such awards of contracts shall be posted for five days, in the same manner as hereinbefore provided for the posting of proposals for said work, and shall be published for two days in a daily newspaper published and circulated in said city and desig-

nated by said city council, or in cities where there is no daily newspaper, by one insertion in a semiweekly or weekly newspaper so published, circulated and designated; provided, however, that in case there is no newspaper printed or published in any such city, then such notice of award shall only be kept posted as hereinbefore provided. The owners of three fourths of the frontage of lots and lands upon the street whereon said work is to be done, or their agents, and who shall make oath that they are such owners or agents, shall not be required to present sealed proposals or bids, but may, within ten days after the first posting and publication of said notice of said award, elect to take said work and enter into a written contract to do the whole work at the price at which the same has been awarded. Should the said owners fail to elect to take said work, and to enter into a written contract therefor within ten days, or to commence the work within fifteen days after the first posting and publication of said award, and to prosecute the same with diligence to completion, it shall be the duty of the superintendent of streets to enter into a contract with the original bidder to whom the contract was awarded, and at the prices specified in his bid. But if such original bidder neglects, fails or refuses, for fifteen days after the first posting and publication of the notice of award, to enter into the contract, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and award the contract for said work to the then lowest regular bidder. The bids of all persons and the election of all owners, as aforesaid, who have failed to enter into the contract as herein provided, shall be rejected in any bidding or election subsequent to the first for the same work. If the owner or contractor, who may have taken any contract, do not complete the same within the time limited in the contract, or within such further time as the city council may give them, the superintendent of streets shall report such delinquency to the city council which may relet the unfinished portion of said work, after pursuing the formalities prescribed hereinbefore for the letting of the whole in the first instance. All contractors, contracting owners included, shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the superintendent of streets of said city, with two or more sureties and payable to such city, in such sums as the mayor shall deem adequate, conditioned for the faithful performance of the contract; and the sureties shall justify before any person competent to administer an oath, in double the amount mentioned in said bond, over and above all statutory exemptions. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, for payment by him, the cost of publication of the notices, resolutions, orders, or other incidental expenses and matters required under the proceedings prescribed in this act, and such other notices as may be deemed requisite by the city council. And in case the work is abandoned by the city before the letting of the contract, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury. [Amendment, Stats. 1891, 199.]

§ 6. The superintendent of streets is hereby authorized, in his official capacity, to make all written contracts, and receive all bonds authorized by this act, and to do any other act, either express or implied, that pertains to the street department under this act; and he shall fix the time for the commence-

ment, which shall not be more than fifteen days from the date of the contract, and for the completion of the work under all contracts entered into by him, which work shall be prosecuted with diligence from day to day thereafter to completion, and he may extend the time so fixed from time to time, under the direction of the city council. The work provided for in section two of this act must, in all cases, be done under the direction and to the satisfaction of the superintendent of streets, and the materials used shall comply with the specifications and be to the satisfaction of said superintendent of streets, and all contracts made therefor must contain a provision to that effect, and also express notice that, in no case, except where it is otherwise provided in this act, will the city, or any officer thereof, be liable for any portion of the expense, nor for any delinquency of persons or property assessed. The city council may, by ordinance, prescribe general rules directing the superintendent of streets and the contractor as to the materials to be used, and the mode of executing the work, under all contracts thereafter made. The assessment and apportionment of the expenses of all such work or improvement shall be made by the superintendent of streets in the mode herein provided.

§ 6½. Every contractor, person, company, or corporation, including contracting owners, to whom is awarded any contract for street work under this act, shall, before executing the said contract, file with the superintendent of streets a good and sufficient bond, approved by the mayor, in a sum not less than one half of the total amount payable by the terms of said contract; such bond shall be executed by the principal and at least two sureties, who shall qualify for double the sum specified in said bond, and shall be made to inure to the benefit of any and all persons, companies, or corporations who perform labor on, or furnish materials to be used in the said work of improvement, and shall provide that if the contractor, person, company, or corporation to whom said contract was awarded fails to pay for any materials so furnished for the said work of improvement, or for any work or labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in said bond. Any materialman, person, company, or corporation, furnishing materials to be used in the performance of said work specified in said contract, or who performed work or labor upon the said improvement, whose claim has not been paid by the said contractor, company, or corporation to whom the said contract was awarded, may, within thirty days from the time said improvement is completed, file with the superintendent of streets a verified statement of his or its claim, together with a statement that the same, or some part thereof, has not been paid. At any time within ninety days after the filing of such claim, the person, company, or corporation, filing the same, or their assigns, may commence an action on said bond for the recovery of the amount due on said claim, together with the costs incurred in said action, and a reasonable attorney fee, to be fixed by the court, for the prosecution thereof. [New section, Stats. 1899, 23.]

§ 7. Subdivision One—The expense incurred for any work authorized by this act (which expense shall not include the cost of any work done in such portion of any street as is required by law to be kept in order or repair by any person or company having railroad tracks thereon, nor include work which shall have been declared in the resolution of intention to be assessed on a dis-

trict benefited) shall be assessed upon the lots and lands fronting thereon, except as hereinafter specifically provided; each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per front foot sufficient to cover the total expense of the work.

Subdivision Two—The expense of all improvements, except such as are done by contractors under the provisions of section thirteen of this act, until the streets, avenues, street crossings, lanes, alleys, places, or courts are finally accepted, as provided in section twenty of this act, shall be assessed upon the lots and lands, as provided in this section, according to the nature and character of the work; and after such acceptance the expense of all the work thereafter done thereon shall be paid by said city out of the street department fund.

Subdivision Three—The expense of the work done on main street crossings shall be assessed at a uniform rate per front foot of the quarter blocks and irregular blocks adjoining and cornering upon the crossings, and separately upon the whole of each lot or portion of lot having any frontage in the said blocks fronting on said main streets, half-way to the next main street crossing, and all the way on said blocks to a boundary line of the city where no such crossing intervenes, but only according to its frontage in said quarter blocks and irregular blocks.

Subdivision Four—Where a main street terminates in another main street, the expenses of the work done on one half of the width of the street opposite the termination shall be assessed upon the lots in each of the two quarter blocks adjoining and cornering on the same, according to the frontage of such lots on said main streets, and the expense of the other half of the width of said street upon the lot or lots fronting on the latter half of the street at such termination.

Subdivision Five—Where any alley or subdivision street crosses a main street, the expense of all work done on said crossing shall be assessed on all lots or portions of lots half-way on said alley or subdivision street to the next crossing or intersection, or to the end of such alley or subdivision street, if it does not meet another.

Subdivision Six—The expense of work done on alley or subdivision street crossings shall be assessed upon the lots fronting upon such alley or subdivision streets on each side thereof, in all directions, half-way to the next street, place or court, on either side, respectively, or to the end of such alley or subdivision street, if it does not meet another.

Subdivision Seven—Where a subdivision street, avenue, lane, alley, place, or court terminates in another street, avenue, lane, alley, place, or court, the expense of the work done on one half of the width of the subdivision street, avenue, lane, alley, place, or court opposite the termination, shall be assessed upon the lot or lots fronting on such subdivision street, or avenue, lane, alley, place, or court so terminating, according to its frontage thereon, half-way on each side, respectively, to the next street, avenue, lane, alley, court, or place, or to the end of such street, avenue, lane, alley, place, or court, if it does not meet another, and the other one half of the width upon the lots fronting such termination.

Subdivision Eight—Where any work mentioned in this act (manholes, cess-pools, culverts, crosswalks, piling and capping excepted) is done on either or

both sides of the center line of any street for one block or less, and further work opposite to the work of the same class already done is ordered to be done to complete the unimproved portion of said street, the assessment to cover the total expenses of said work so ordered shall be made upon the lots or portions of the lots only fronting the portions of the work so ordered. And when sewerage or re-sewerage is ordered to be done under the sidewalk on only one side of a street for any length thereof, the assessment for its expenses shall be made only upon the lots and lands fronting nearest upon that side, and for intervening intersections only upon the two quarter blocks adjoining and cornering upon that side.

Subdivision Nine—Section one of chapter three hundred and twenty-five of the laws of this state, entitled “An act amendatory of and supplementary to ‘An act to provide revenue for the support of the government of this state,’ approved April twenty-ninth, eighteen hundred and fifty-seven,” approved April nineteenth, eighteen hundred and fifty-nine, shall not be applicable to the provisions of this section; but the property herein mentioned shall be subject to the provisions of this act, and be assessed for work done under the provisions of this section.

Subdivision Ten—It shall be lawful for the owner or owners of lots or lands fronting upon any street the width and grade of which have been established by the city council, to perform, at his or their own expense (after obtaining permission from the council so to do, but before said council has passed its resolution of intention to order grading inclusive of this), any grading upon said street, to its full width, or to the center line thereof, and to its grade as then established, and thereupon to procure, at his or their own expense, a certificate from the city engineer, setting forth the number of cubic yards of cutting and filling made by him or them in said grading, and the proportions performed by each owner, and that the same is done to the established width and grade of said street, or to the center line thereof, and thereafter to file said certificate with the superintendent of streets, which certificate the superintendent shall record in a book kept for that purpose in his office, properly indexed. Whenever thereafter the city council orders the grading of said street, or any portion thereof, on which any grading certified as aforesaid has been done, the bids and contracts must express the price by the cubic yard for cutting and filling in grading; and the said owner or owners, and his or their successors in interest, shall be entitled to credit, on the assessment upon his or their lots and lands fronting on said streets for the grading thereof, to the amount of the cubic yards of cutting and filling set forth in his or their said certificate, at the prices named in the contract for said cutting and filling; or, if the grade meanwhile has been duly altered, only for so much of said certified work as would be required for grading to the altered grade; provided, however, that such owner or owners shall not be entitled to such credit as may be in excess of the assessments for grading upon the lots and lands owned by him or them, and proportionately assessed for the whole of said grading; and the superintendent of streets shall include in the assessment for the whole of said grading upon the same grade the number of cubic yards of cutting and filling set forth in any and all certificates so recorded in his office, or for the whole of said grading to the duly altered grade so much of said certified work as

would be required for grading thereto, and shall enter corresponding credits, deducting the same as payments upon the amounts assessed against the lots and lands owned, respectively, by said certified owners and their successors in interest; provided, however, that he shall not so include any grading quantities or credit any sums in excess of the proportionate assessments for the whole of the grading which are made upon any lots and lands fronting upon said street and belonging to any such certified owners or their successors in interest. Whenever any owner or owners of any lots and lands fronting on any street shall have heretofore done, or shall hereafter do, any work (except grading) on such street, in front of any block, at his or their own expense, and the city council shall subsequently order any work to be done of the same class in front of the same block, said work so done at the expense of such owner or owners shall be excepted from the order ordering work to be done, as provided in subdivision eleven of this section of this act; provided, that the work so done at the expense of such owner or owners, shall be upon the official grade, and in condition satisfactory to the street superintendent at the time said order is passed.

Subdivision Eleven—The city council may include in one resolution of intention and order any of the different kinds of work mentioned in this act, and it may except therefrom any of said work already done upon the street to the official grade. The lots and portions of lots fronting upon said excepted work already done shall not be included in the frontage assessment for the class of work from which the exception is made; provided, that this shall not be construed so as to affect the special provisions as to grading contained in subdivision ten of this section.

Subdivision Twelve—Whenever the resolution of intention declares that the costs and expenses of the work and improvement are to be assessed upon a district, the city council shall direct the city engineer to make a diagram of the property affected or benefited by the proposed work or improvement, as described in the resolution of intention, and to be assessed to pay the expenses thereof. Such diagram shall show each separate lot, piece or parcel of land, the area in square feet of each of such lots, pieces, or parcels of land, and the relative location of the same to the work proposed to be done, all within the limits of the assessment district; and when said diagram shall have been approved by the city council, the clerk shall, at the time, of such approval, certify the fact and date thereof. Immediately thereafter the said diagram shall be delivered to the superintendent of streets of said city, who shall after the contractor of any street work has fulfilled his contract to the satisfaction of said superintendent of streets or city council, on appeal, proceed to estimate upon the lands, lots or portions of lots within said assessment district, as shown by said diagram, the benefits arising from such work, and to be received by each such lot, portion of such lot, piece, or subdivision of land, and shall thereupon assess upon and against said land in said assessment district the total amount of the costs and expenses of such proposed work, and in so doing shall assess said total sum upon the several pieces, parcels, lots, or portions of lots, and subdivisions of land in said district benefited thereby, to wit: Upon each respectively, in proportion to the estimated benefits to be received by each of said several lots, portions of lots, or subdivisions of land. In other respects the

assessment shall be as provided in the next section, and the provisions of subdivisions three, four, five, six, seven, and eight of this section shall not be applicable to the work or improvement provided for in this subdivision. [Amendment, Stats. 1891, 201.]

§ 8. After the contractor of any street work has fulfilled his contract to the satisfaction of the street superintendent of said city, or city council on appeal, the street superintendent shall make an assessment to cover the sum due for the work performed and specified in said contract (including any incidental expenses), in conformity with the provisions of the preceding section according to the character of the work done; or, if any direction and decision be given by said council on appeal, then in conformity with such direction and decision, which assessment shall briefly refer to the contract, the work contracted for and performed, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per front foot assessed, if the assessment be made per front foot, the amount of each assessment, the name of the owner of each lot, or portion of a lot (if known to the street superintendent); if unknown the word "Unknown" shall be written opposite the number of the lot, and the amount assessed thereon, the number of each lot or portion or portions of a lot assessed, and shall have attached thereto a diagram exhibiting each street or street crossing, lane, alley, place, or court, on which any work has been done, and showing the relative location of each district, lot, or portion of lot to the work done, numbered to correspond with the numbers in the assessments, and showing the number of feet fronting, or number of lots assessed, for said work contracted for and performed. [Amendment, Stats. 1889, 166.]

§ 9. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor of said city. The said warrant shall be substantially in the following form:

By virtue hereof, I (name of the superintendent of streets), of the city of ———, county of ——— (or city and county of ———), and state of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), (his or their) agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be (his or their) warrant for the same.
(Date.)

———— (name of superintendent of streets.)

Countersigned by (name of mayor).

Said warrant, assessment, and diagram, together with the certificate of the city engineer, shall be recorded in the office of said superintendent of streets. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged; and from and after the date of said recording of any warrant, assessment, diagram and certificate, all persons mentioned in section eleven of this act shall be deemed to have notice of the contents of the record thereof. After said warrant, assessment, diagram, and certificate are recorded, the same shall be delivered to the contractor, or his agent, or assigns, on demand, but not until after the payment to the said superintendent of streets of the incidental expenses not previously paid

by the contractor, or his assigns; and by virtue of said warrant said contractor, or his agent or assigns, shall be authorized to demand and receive the amount of the several assessments made to cover the sum due for the work specified in such contracts and assessments. Whenever it shall appear by any final judgment of any court of this state that any suit brought to foreclose the lien of any sum of money assessed to cover the expense of said street work done under the provisions of this act has been defeated by reason of any defect, error, informality, omission, irregularity, or illegality in any assessment hereafter to be made and issued, or in the recording thereof, or in the return thereof made to or recorded by said superintendent of streets, any person interested therein may, at any time within three months after the entry of said final judgment, apply to said superintendent of streets who issued the same, or to any superintendent of streets in office at the time of said application, for another assessment to be issued in conformity to law; and said superintendent shall, within fifteen days after the date of said application, make and deliver to said applicant a new assessment, diagram, and warrant in accordance with law; and the acting mayor shall countersign the same as now provided by law, which assessment shall be a lien for the period of two years from the date of said assessment, and be enforced as provided in section seven of this act. [Amendment, Stats. 1891, 205.]

§ 10. The contractor, or his assigns, or some person in his or their behalf, shall call upon the persons assessed, or their agents, if they can conveniently be found, and demand payment of the amount assessed to each. If any payment be made the contractor, his assigns, or some person in his or their behalf, shall receipt the same upon the assessment in presence of the person making such payment, and shall also give a separate receipt if demanded. Whenever the person[s] so assessed, or their agents, cannot conveniently be found, or whenever the name of the owner of the lot is stated as "Unknown" on the assessment, then the said contractor, or his assigns, or some person in his or their behalf, shall publicly demand payment on the premises assessed. The warrant shall be returned to the superintendent of streets within thirty days after its date, with a return indorsed thereon, signed by the contractor, or his assigns, or some person in his or their behalf, verified upon oath, stating the nature and character of the demand, and whether any of the assessments remain unpaid, in whole or in part, and the amount thereof. Thereupon the superintendent of streets shall record the return so made, in the margin of the record of the warrant and assessment, and also the original contract referred to therein, if it has not already been recorded at full length in a book to be kept for that purpose in his office, and shall sign the record. The said superintendent of streets is authorized at any time to receive the amount due upon any assessment list and warrant issued by him, and give a good and sufficient discharge therefor; provided, that no such payment so made after suit has been commenced, without the consent of the plaintiff in the action, shall operate as a complete discharge of the lien until the costs in the action shall be refunded to the plaintiff; and he may release any assessment upon the books of his office, on the payment to him of the amount of the assessment against any lot with interest, or on the production to him of the receipt of the party or his assigns to whom the assessment and warrant were issued; and if any contractor shall fail to return his

warrant within the time and in the form provided in this section, he shall thenceforth have no lien upon the property assessed; provided, however, that in case any warrant is lost, upon proof of such loss a duplicate can be issued, upon which a return may be made, with the same effect as if the original had been so returned. After the return of the assessment and warrant as aforesaid, all amounts remaining due thereon shall draw interest at the rate of ten per centum per annum until paid.

§ 11. The owners, whether named in the assessment or not, the contractor, or his assigns, and all other persons directly interested in any work provided for in this act, or in the assessment, feeling aggrieved by any act or determination of the superintendent of streets in relation thereto, or who claim that the work has not been performed according to the contract in a good and substantial manner, or having or making any objection to the correctness or legality of the assessment or other act, determination, or proceedings of the superintendent of streets, shall, within thirty days after the date of the warrant, appeal to the city council, as provided in this section, by briefly stating their objections in writing, and filing the same with the clerk of said city council. Notice of the time and place of the hearing, briefly referring to the work contracted to be done, or other subject of appeal, and to the acts, determinations, or proceedings objected to or complained of, shall be published for five days. Upon such appeal, the said city council may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the superintendent of streets relative to said work; may confirm, amend, set aside, alter, modify, or correct the assessment in such manner as to them shall seem just, and require the work to be completed according to the directions of the city council; and may instruct and direct the superintendent of streets to correct the warrant, assessment, or diagram in any particular, or to make and issue a new warrant, assessment, and diagram, to conform to the decisions of said city council in relation thereto, at their option. All the decisions and determinations of said city council, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this section, as to all errors, informalities, and irregularities which said city council might have remedied and avoided; and no assessment shall be held invalid, except upon appeal to the city council, as provided in this section, for any error, informality, or other defect in any of the proceedings prior to the assessment, or in the assessment itself, where notice of the intention of the city council to order the work to be done, for which the assessment is made, has been actually published in any designated newspaper of said city for the length of time prescribed by law, before the passage of the resolution ordering the work to be done.

§ 12. At any time after the period of thirty-five days from the day of the date of the warrants, as herein provided, or if an appeal is taken to the city council, as provided in section eleven of this act, at any time after five days from the decision of said council, or after the return of the warrant or assessment, after the same may have been corrected, altered, or modified, as provided in said section eleven (but not less than thirty-five days from the date of the warrant), the contractor or his assignee may sue, in his own name, the owner of the land, lots, or portions of lots, assessed on the day of the date of the

recording of the warrant, assessment, and diagram, or any day thereafter during the continuance of the lien of said assessment, and recover the amount of any assessment remaining unpaid, with interest thereon at the rate of ten per centum per annum until paid. And in all cases of recovery under the provisions of this act, the plaintiff shall recover the sum of fifteen dollars, in addition to the taxable cost as attorney's fees, but not any percentage upon said recovery. And when suit has been brought, after a personal demand has been made and a refusal to pay such assessment so demanded, the plaintiff shall also be entitled to have and recover said sum of fifteen dollars as attorney's fees, in addition to all taxable costs, notwithstanding that the suit may be settled or a tender may be made before a recovery in said action, and he may have judgment therefor. Suit may be brought in the superior court within whose jurisdiction the city is in which said work has been done, and in case any of the assessments are made against lots, portions of lots, or lands the owners thereof cannot, with due diligence, be found, the service in each of such actions may be had in such manner as is prescribed in the codes and laws of this state. The said warrant, assessment, certificate, and diagram, with the affidavit of demand and non-payment, shall be held *prima facie* evidence of the regularity and correctness of the assessment and of the prior proceedings and acts of the superintendent of streets and city council upon which said warrant, assessment, and diagram are based, and like evidence of the right of the plaintiff to recover in the action. The court in which said suit shall be commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of said courts; and on appeal, the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken. Such premises, if sold, may be redeemed as in other cases. In all suits now pending, or hereafter brought to recover street assessments, the proceedings therein shall be governed and regulated by the provisions of this act, and also, when not in conflict herewith, by the codes of this state. This act shall be liberally construed to effect the ends of justice. [Amendment, Stats. 1889, 168.]

§ 12½. The city council, instead of waiting until the completion of the improvement, may, in its discretion, and not otherwise, upon the completion of two blocks or more of any improvement, order the street superintendent to make an assessment for the proportionate amount of the contract completed, and thereupon proceedings and rights of collection of such proportionate amount shall be had as in sections eight, nine, ten, eleven, and twelve of the act of which this is amendatory is provided. [New section, Stats. 1889, 169.]

§ 13. When any portion of any street, avenue, lane, alley, court, or place in said city improved, or any sidewalk constructed thereon shall be out of repair, or needing reconstruction, and in condition to endanger persons or property passing thereon, or in condition to interfere with the public convenience in the use thereof, it shall be the duty of said superintendent of streets to require, by notice in writing, to be delivered to them or their agents personally, or left on the premises, the owners or occupants of lots or portions of lots fronting on said portion of said street, avenue, alley, lane, court, or place, or of said

portion of said sidewalks so out of repair or needing reconstruction as aforesaid, to repair or reconstruct, or to do both, forthwith, said portion of said street, avenue, lane, alley, court, or place, to the center line of said street in front of the property of which he is the owner, or tenant, or occupant; and said superintendent of streets shall particularly specify in said notice what work is required to be done, and how the same is to be done, and what material shall be used in said repairs, or reconstructions, or both. If said repairs, or reconstructions, or both, be not commenced within three days after notice given as aforesaid, and diligently and without interruption prosecuted to completion, the said superintendent of streets may, under authority from said city council, make such repairs, reconstruction, or both, or enter into a contract with any suitable person, at the expense of the owner, tenant, or occupant, after the specification for the doing of said work shall have been conspicuously posted by him in his office for two days, inviting bids for the doing of said work, which bids shall be delivered to him at his office on or before the second day of said posting, and opened by him on the next day following the expiration of said two days of posting, and the contract by him be awarded to the lowest bidder, if such lowest bid, in the judgment of said street superintendent, shall be reasonable. All of said bids shall be preserved in his office and open at all times after the letting of the contract to the inspection of all persons, and such owner, tenant, or occupant shall be liable to pay said contract price. Such work shall be commenced within twenty-four hours after the contract shall have been signed, and completed without delay to the satisfaction of said street superintendent. Upon the completion of said repairs, or reconstruction, or both, by said contractors as aforesaid, to the satisfaction of said superintendent of streets, said superintendent of streets shall make and deliver to said contractor a certificate to the effect that said repairs, or reconstruction, or both, have been properly made by said contractor to the grade, and that the charges for the same are reasonable and just, and that he, said superintendent, has accepted the same. [Amendment, Stats. 1889, 169.]

§ 14. If the expenses of the work and material for such improvement, after the completion thereof, and the delivery to said contractor of said certificate, be not paid to the contractor so employed, or his agent or assignee, on demand, the said contractor, or his assignee, shall have the right to sue such owner, tenant, or occupant for the amount contracted to be paid; and said certificate of the superintendent of streets shall be prima facie evidence of the amount claimed for said work and materials, and of the right of the contractor to recover for the same in such action. Said certificate shall be recorded by the said superintendent of streets in a book kept by him in his office for that purpose, properly indexed, and the sum contracted to be paid shall be a lien, the same as provided in section nine of this act, and may be enforced in the same manner.

§ 15. In addition, and as cumulative to the remedies above given, the city council shall have power, by resolution or ordinance, to prescribe the penalties that shall be incurred by any owner or person liable, or neglecting, or refusing to make repairs when required, as provided in section (13) thirteen of this act, which fines and penalties shall be recovered for the use of the city by prosecution in the name of the people of the state of California, in the court

having jurisdiction thereof, and may be applied, if deemed expedient by the said council, in the payment of the expenses of any such repairs not otherwise provided for.

§ 16. The person owning the fee, or the person in whom, on the day the action is commenced, appears the legal title to the lots and lands, by deeds duly recorded in the county recorder's office of each county, or the person in possession of lands, lots, or portions of lots or buildings under claim, or exercising acts of ownership over the same for himself, or as the executor, administrator, or guardian of the owner, shall be regarded, treated, and deemed to be the "owner" (for the purpose of this law), according to the intent and meaning of that word as used in this act. And in case of property leased, the possession of the tenant or lessee holding and occupying under such persons shall be deemed to be the possession of such owner.

§ 17. Any tenant or lessee of the lands or lots liable may pay the amount assessed against the property of which he is the tenant or lessee under the provisions of this act, or he may pay the price agreed on to be paid under the provision of section thirteen of this act, either before or after suit brought, together with costs, to the contractor, or his assigns, or he may redeem the property, if sold on execution or decree for the benefit of the owner, within the time prescribed by law, and deduct the amount so paid from the rents due and to become due from him, and for any sums so paid beyond the rents due from him, he shall have a lien upon and may retain possession of the said land and lots until the amount so paid and advanced be satisfied, with legal interest, from accruing rents, or by payment by the owner.

§ 18. The records kept by the superintendent of streets of said city, in conformity with the provisions of this act, and signed by him, shall have the same force and effect as other public records, and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

§ 19. Notices in writing which are required to be given by the superintendent of streets, under the provisions of this act, may be served by any person, with the permission of the superintendent of streets, and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent of streets, who for that purpose, and for all other purposes, and in all cases where a verification is required under the provisions of this act, is hereby authorized to administer oaths, or other person authorized to administer oaths, or such notices may be delivered to the superintendent of streets himself, who must also verify the service thereof, and who shall keep a record of the fact of giving such notices, when delivered by himself personally, and also of the notices and proof of service when delivered by any other person. [Amendment, Stats. 1889, 170.]

§ 20. Whenever any street, or portion of a street, has been or shall hereafter be fully constructed to the satisfaction of the superintendent of streets and of the city council, and is in good condition throughout, and a sewer, gas pipes, and water pipes are laid therein, under such regulations as the city council shall adopt, the same shall be accepted by the city council, by ordinance, and

thereafter shall be kept in repair and improved by the said municipality; the expense thereof, together with the assessment for street work done in front of city property, to be paid out of a fund to be provided by said council for that purpose; provided, that the city council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing), and one block in length, or one entire crossing; and, provided further, that the city council may partially or conditionally accept any street, or portion of a street, without a sewer, or gas pipes, or water pipes therein, if the ordinance of acceptance expressly states that the council deems such sewer, or gas pipes, or water pipes, to be then unnecessary, but the lots of land previously, or at any time, assessable for the cost of constructing a sewer, shall remain and be assessable for such cost, and for the cost of repairs and restoration of the street damaged in the said construction, whenever said council shall deem a sewer to be necessary, and shall order it to be constructed, the same as if no partial or conditional acceptance had ever been made. The superintendent of streets shall keep in his office a register of all streets accepted by the city council under this section, which register shall be indexed for easy reference thereto.

§ 21. The superintendent of streets shall keep a public office in some convenient place within the municipality, and such records as may be required by the provisions of this act. He shall superintend and direct the cleaning of all sewers, and the expense of the same shall be paid out of the street or sewer fund of said city.

§ 22. It shall be the duty of the superintendent of streets to see that the laws, ordinances, orders, and regulations relating to the public streets and highways be fully carried into execution, and that the penalties thereof are rigidly enforced. He shall keep himself informed of the condition of all the public streets and highways, and also of all public buildings, parks, lots, and grounds of said city, as may be prescribed by the city council. He shall, before entering upon the duties of his office, give bonds to the municipality, with such sureties and for such sums as may be required by the city council; and should he fail to see the laws, ordinances, orders, and regulations relative to the public streets or highways carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in his person or property in consequence of said official neglect.

§ 23. If, in consequence of any graded street or public highway improved under the provisions of this act, being out of repair and in condition to endanger persons or property passing thereon, any person, while carefully using said street or public highway, and exercising ordinary care to avoid danger, suffer damage to his person or property, through any such defect therein, no recourse for damages thus suffered shall be had against such city; but if such defect in the street or public highway shall have existed for the period of twenty-four hours or more after notice thereof to the said superintendent of streets, then the person or persons on whom the law may have imposed the obligations to repair such defect in the street or public highway, and also the officer or officers through whose official negligence such defect remains unrepaired, shall be jointly and severally liable to the party injured for the damage sustained; provided, that said superintendent has the authority to make said repairs, under the direction of the city council, at the expense of the city.

§ 24. The city council of such city shall have full power and authority to construct sewers, gutters, and manholes, and provide for the cleaning of the same, and culverts or cesspools, or crosswalks or sidewalks, or any portion of any sidewalk, upon or in any street, avenue, lane, alley, court, or place in such city; and also for drainage purposes, over or through any right of way obtained or granted for such purposes, with necessary and proper outlet or outlets to the same, of such materials, in such a manner, and upon such terms as it may be deemed proper. None of the work or improvements described in this section shall be stayed or prevented by any written or any other remonstrance or objection, unless such council deems proper. [Amendment, Stats. 1893, 173.]

§ 25. The city council may, in its discretion, repair and water streets that shall have been graded, curbed, and planked, paved, or macadamized, and may build, repair, and clean sewers, and shall provide a street contingent fund at the same time and in the same manner as other funds are provided, out of which to pay the costs and expenses of making said repairs, and watering said streets, and building, repairing, and cleaning said sewers; but whenever any unaccepted street or part of a street requires regrading, recurbing, repiling, repaving, replanking, regravelling, or remacadamizing, or requires new culverts, or new crosswalks, or new sidewalks, or new sewers, the work shall be advertised and let out by contract, and the costs and expenses thereof shall be assessed upon the property affected or benefited thereby, the same as in the first instance.

§ 26. The city council may, in its discretion, order, by resolution, that the whole or any part of the cost and expenses of any of the work mentioned in this act be paid out of the treasury of the municipality from such fund as the council may designate. Whenever a part of such cost and expenses is so ordered to be paid, the superintendent of streets, in making up the assessment heretofore provided for such cost and expenses, shall first deduct from the whole cost and expenses such part thereof as has been so ordered to be paid out of the municipal treasury, and shall assess the remainder of said cost and expenses proportionately upon the lots, parts of lots, and lands fronting on the streets where said work was done, or liable to be assessed for such work, and in the manner heretofore provided. [Amendment, Stats. 1891, 206.]

PART II.

§ 27. Whenever the city council deem it necessary to construct a sewer, then the said council may, in its discretion, determine to construct said sewer, and assess the cost and expenses thereof upon the property to be affected or benefited thereby, in such manner and within such assessment district as it shall prescribe, and the lien therefor upon said property shall be the same as is provided in section nine of this act, or said council may determine to construct said sewer and pay therefor out of the street contingent fund.

§ 28. If, at any time, the city council shall deem it necessary to incur any indebtedness for the construction of sewers, in excess of the money in the street contingent fund applicable to the construction of such sewers, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the route and general character of the sewer, or sewers to be constructed, and the amount of money necessary

to be raised annually by taxation for an interest and sinking fund as herein-after provided. Such notice shall be published for at least three weeks in some newspaper published in such city, and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the city council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation, within such city, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the city council in each year thereafter, at the time when other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes authorized to be levied for city purposes. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

§ 29. If bonds are issued under the provisions of the last section, said bonds shall be in sums of not less than one hundred dollars nor more than one thousand dollars, shall be signed by the mayor and treasurer of the city, and the seal of the city shall be affixed thereto. Coupons for the interest shall be attached to each bond, signed by the mayor and treasurer. Said bonds shall bear interest, to be fixed by the city council, at the rate of not to exceed five per centum per annum.

§ 30. Before the sale of said bonds, the council shall, at a regular meeting, by resolution, declare its intention to sell a specified amount of said bonds, and the day and hour of such sale, and shall cause such resolution to be entered in the minutes, and shall cause notice of such sale to be published for fifteen days in at least one newspaper published in the city in which the bonds are issued, and one published in the city and county of San Francisco, and in any other newspaper in the state, at their discretion. The notice shall state that sealed proposals will be received by the council for the purchase of the bonds on the day and hour named in the resolution. The council, at the time appointed, shall open the proposals and award the purchase of the bonds to the highest bidder, but may reject all bids.

§ 31. The council may sell said bonds, at not less than par value, without the notice provided for in the preceding section.

§ 32. The proceeds of the sale of the bonds shall be deposited in the city treasury, to the account of the sewer fund, but no payment therefrom shall be made, except to pay for the construction of the sewer or sewers, for the construction of which the bonds were issued, and upon the certificate of the superintendent of streets and the city engineer that the work has been done according to the contract; provided, that after the completion of the sewers, for the construction of which said bonds were issued, if there be any money of said fund left in the treasury, the same may be transferred to the general fund, for general purposes. [Amendment, Stats. 1887, 148.]

§ 33. Whenever said council shall determine to construct any sewer, and pay therefor out of the street contingent fund, or by the issuance of bonds, as above provided, then said council shall cause to be prepared plans and specifications of said work in sections, and shall advertise for twenty days in at least one newspaper published in the city in which the sewer is to be constructed, and one in the city and county of San Francisco, for sealed proposals for constructing said sewer. The work may be let in sections, and must be awarded to the lowest responsible bidder, the council having the right to reject any and all bids. The work shall be done and the materials furnished under the supervision and to the satisfaction of the superintendent of streets and the city engineer.

PART III.

§ 34. First—The city engineer, or where there is no city engineer, the county, or city and county surveyor, shall be the proper officer to do the surveying and other engineering work necessary to be done under this act, and to survey and measure the work to be done under contracts for grading and macadamizing streets, and to estimate the costs and expenses thereof; and every certificate signed by him in his official character shall be prima facie evidence in all courts in this state of the truth of its contents. He shall also keep a record of all surveys made under the provisions of this act, as in other cases. In all those cities where there is no city engineer, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of city engineer, and all the provisions hereof applicable to the city engineer shall apply to such person so appointed. Said city council is hereby empowered to fix his compensation for such services.

Second—The words “work,” “improve,” “improved” and “improvement,” as used in this act, shall include all work mentioned in this act, and also the construction, reconstruction and repairs of all or any portion of said work.

Third—The term “incidental expenses,” as used in this act, shall include the compensation of the city engineer for work done by him; also the cost of printing and advertising as provided in this act, and not otherwise; also, the compensation of the person appointed by the superintendent of streets to take charge of and superintend any of the work mentioned in section thirty-five of this act. All demands for incidental expenses mentioned in this subdivision shall be presented to the street superintendent by itemized bill, duly verified by oath of the demandant.

Fourth—The notices, resolutions, orders or other matter required to be published by the provisions of this act, and of the act of which this is amendatory, shall be published in a daily newspaper, in cities where such there is, and where there is no daily newspaper, in a semiweekly or weekly newspaper, to be designated by the council of such city, as often as the same is issued, and no other statute shall govern or be applicable to the publications herein provided for; provided, however, that only in case there is no daily, semiweekly or weekly newspaper printed or circulated in any such city, then such notices, resolutions, orders or other matters as are herein required to be published in a newspaper, shall be posted and kept posted for the same length of time as required herein for the publication of the same in a daily, semiweekly or weekly newspaper, in three of the most public places in such city. Proof of the publication or posting of any

notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper, or of the poster of the notice. No publication or notice, other than that provided for in this act, shall be necessary to give validity to any of the proceedings provided for therein.

Fifth—The word “municipality” and the word “city,” as used in this act, shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

Sixth—The words “paved” or “repaved,” as used in this act, shall be held to mean and include pavement of stone, whether paving blocks or macadamizing, or of bituminous rock or asphalt, or of iron, wood or other material, whether patented or not, which the city council shall by ordinance adopt.

Seventh—The word “street,” as used in this act, shall be deemed to, and is hereby declared to, include avenues, highways, lanes, alleys, crossings, or intersections, courts and places, and the term “main street” means such actually opened street or streets as bound a block; the word “blocks,” whether regular or irregular, shall mean such blocks as are bounded by main streets, or partially by a boundary line of the city.

Eighth—The terms “street superintendent” and “superintendent of streets,” as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets; and all provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such person so appointed.

Ninth—The term “city council” is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

Tenth—In municipalities in which there is no mayor, then the duties imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees, or other chief executive officer of the municipality.

Eleventh—The term[s] “clerk” and “city clerk,” as used in this act, is [are] hereby declared to include any person or officer who shall be clerk of the said city council.

Twelfth—The term “quarter block,” as used in this act as to irregular blocks, shall be deemed to include all lots or portions of lots having any frontage on either intersecting street half-way from such intersection to the next main street, or, when no main street intervenes, all the way to a boundary line of the city.

Thirteenth—The term “one year,” as used in this act, shall be deemed to include the time beginning with January first and ending with the thirty-first day of December of the same year.

Fourteenth—References in certain sections, by number, to certain other sections of “this act” refer to the number of the sections of the original act, as heretofore amended, unless it appears from the context that the reference is to the

section of this amendatory act, when it shall be construed according to the context. [Amendment, Stats. 1891, 206.]

§ 35. The superintendent of streets in all cities having a population of fifty thousand or over shall, when in his judgment it is necessary, appoint a suitable person to take charge of and superintend the construction and improvement of each and every sewer constructed or improved under the provisions of this act, and of piling and capping, sidewalks, or of the paving of whatever character heretofore mentioned, in whole or in part, of one block or more, whose duty it shall be to see that the contract made for the doing of said work is strictly fulfilled in every respect, and in case of any departure therefrom to report the same to the superintendent of streets. Such person shall be allowed for his time actually employed in the discharge of his duties such compensation as shall be just, but not to exceed four dollars per day. The sum to which the party so employed shall be entitled shall be deemed to be incidental expenses, within the meaning of those words as defined by this act. [Amendment, Stats. 1903, 88.]

§ 36. The act entitled "An act to provide for the improvement of streets, lanes, alleys, courts, places, and sidewalks, and the construction of sewers within municipalities," approved March sixth, eighteen hundred and eighty-three, is hereby repealed; provided, that any work or proceedings commenced thereunder prior to the passage of this act shall in nowise be affected hereby, but shall in all respects be finished and completed under said act of March sixth, eighteen hundred and eighty-three, and said repeal shall in nowise affect said work or proceedings.

§ 37. That said act shall take effect and be in force immediately upon its passage, and all acts and parts of acts in conflict with this act are hereby repealed; and provided, however, that any work or proceeding of the city council commenced under the act of which this is amendatory shall in nowise be affected thereby, but shall in all respects be finished and completed thereunder. [Amendment, Stats. 1893, 173.]

§ 38. The city council is hereby empowered to change or modify the grade of any public street, lane, alley, place, or court, and to regrade or repave the same, so as to conform to such modified grade, in the manner as hereinafter provided. Before any change of grade is ordered the city council shall pass an ordinance or resolution of intention to make such change or modification of grade, and it shall have power at the same time and in the same ordinance or resolution to provide for the actual cost of performing the work of regrading, repaving, sewerage, sidewalking, or curbing of said street or portion of street, with the same or other material with which it was formerly graded, paved, sewered, sidewalked, or curbed; and that the cost of the same shall also be assessed upon the same district which is declared to be benefited by such changed or modified grade. One or more streets or blocks of streets may be embraced in the same ordinance or resolution. Such ordinance or resolution shall be published in the newspaper in which the official notices of the city council are usually printed and published, and such newspaper is to be designated in such ordinance or resolution. Such publication shall be made in every regular issue of such paper for not less than ten days, and shall describe the proposed change or modification of grade or regrading, and shall designate and establish the district to be benefited

by such change or modification of grade or regrading, and to be assessed for the cost of the same. Within five days after the first publication of the ordinance or resolution of intention, the superintendent of streets shall cause to be conspicuously posted within the district designated in the ordinance or resolution, notice of the passage of said resolution. Said notices shall be the same in all requirements of contents and posting as the "Notices of Street Work" provided for in section three of the original act to which this is amendatory. If no objection to said proposed change or changes, or modifications of grade, shall be filed with the clerk of the council within thirty days from the first publication of the ordinance or resolution of intention hereinbefore mentioned, the city council shall have power to declare such grades to be changed and established in conformity to said ordinance or resolution; provided, that no change of an established grade shall be ordered except on petition of the owners of a majority of the property affected by the proposed change of grade. [Amendment, Stats. 1893, 89.]

§ 39. Within thirty days after the first publication of said notice, any person owning property fronting upon said portions of the street or streets where such change of grade is made, may file a petition with the clerk of the city council showing the fact of such ownership, the description and situation of the property claimed to be damaged, its market value, and the estimated amount of damages over and above all benefits which the property would sustain by the proposed change if completed. Such petition shall be verified by the oath of the petitioners or their agents. [Amendment, Stats. 1893, 90.]

§ 40. Whenever such petition or petitions have been filed, the mayor, surveyor, and superintendent of streets of the city, or city and county, acting as a board of commissioners, shall assess the benefits, damages, and costs of the proposed change of grade upon each separate lot of land situated within such assessment district, as said lot appears of record upon the last city, or city and county assessment roll. [Amendment, Stats. 1893, 90.]

§ 41. The commissioners shall be sworn to make the assessments of benefits and damages to the best of their judgment and ability, without fear or favor. [Amendment, Stats. 1893, 90.]

§ 42. The commissioners shall have power to subpoena witnesses to appear before them to be examined under oath, which any one of said commissioners is authorized to administer. [Amendment, Stats. 1893, 90.]

§ 43. The commissioners having determined the damage which would be sustained by each petitioner, in excess of all benefits, shall proceed to assess the total amount thereof, together with the costs, charges, and expenses of the proceedings, upon the several lots of land benefited within the district of assessment, so that each of the lots shall be assessed in accordance with its benefits caused by such work or improvement; and during the progress of their work shall make a report to such city council as often as it may be required. [Amendment, Stats. 1893, 90.]

§ 44. The commissioners shall make their report, in writing, and shall subscribe to the same and file with the city council. In their said report they shall describe separately each piece of property which will sustain damage, stating the amount of damages each will sustain over and above all benefits. They shall also give a brief description of each lot benefited within said assessment district,

the name of the owner, if known, and the amount of benefits in excess of damages assessed against the same. In case the three commissioners do not agree, the award agreed upon by any two of them shall be sufficient. In designating the lots to be assessed, reference may be had to a diagram of the property in the district affected; such diagram to be attached to and made a part of the report of the commissioners. [Amendment, Stats. 1893, 90.]

§ 45. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt of the ownership of any lot or land, or any improvement thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or particulars of their interest, shall not affect the validity of the assessment. On the filing of said report, the clerk of said city council shall give notice of such filing by the publication of at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily newspaper, by three successive issues in a weekly or semiweekly newspaper so published and circulated; and said notice shall require all persons interested to show cause, if any, why such report should not be confirmed, before the city council, on a day to be fixed by the city council and stated in said notice, which day shall not be less than twenty days from the first publication thereof. [Amendment, Stats. 1893, 91.]

§ 46. All objections shall be in writing and filed with the clerk of the city council, who shall, at the next meeting after the date fixed in the notice to show cause, lay the said objections, if any, before the council, which shall fix a time for hearing the same; of which time the clerk shall notify the objectors in the same manner as are notified objectors to the original resolution of intention. At the time set, or at such other time as the hearing may be adjourned, the city council shall hear such objections and pass upon the same, and at such time shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given and had, as in the case of an original report. In case the ordinance or resolution of intention also provides for the assessing upon the district the cost of regrading or repaving such street or streets to such changed or modified grade, after the report of the commissioners as to the damages caused by such change of grade has been passed upon by the city council, it shall then advertise for bids to perform the work of regrading, repaving, sewerage, sidewalking, or curbing such street or streets with the same or other material with which the same had been formerly graded, paved, sewerage, sidewalked, or curbed; first causing a notice, with specifications, to be posted conspicuously for five days on or near the council chamber door, inviting sealed proposals for bids for doing such work, and shall also cause notices of said work, inviting said proposals and referring to the specifications posted or on file, to be published two days in a daily, semiweekly, or weekly newspaper published and circulated in said city, and designated by the city council for that purpose, and in case there is no newspaper published in the city, then it shall be posted as provided in section three of the original act to which this is amendatory. All proposals or bids offered shall be accompanied by a check, payable to the order of the mayor of the city, and certified by a responsible bank for that amount, which shall not be less than ten per centum of the aggregate of the proposals;

or by a bond for said amount, signed by the bidder and two sureties, who shall justify under oath in double said amount over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council, and said council shall in open session, examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by a check or a bond satisfactory to the council. The city council may reject any and all bids, and may award the contract to the lowest responsible bidder, which award shall be approved by the mayor or the three-fourths vote of the city council. If not approved by the mayor or the three-fourths vote of the city council, the city council may readvertise for proposals or bids for the performance of the work, as in the first instance, and thereafter proceed in the manner in this section provided. All checks accompanying bids shall be held by the clerk until the bearer has entered into a contract, as herein provided; and in case he refuses so to do, then the amount of his certified check shall be declared forfeited to the city, and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted, and the amount thereon collected paid into such fund. Notice of the awards of the contracts shall be published and posted in the same manner as hereinbefore provided for the posting of proposals for said work. [Amendment, Stats. 1893, 91.]

§ 47. After such contract has been awarded and entered into, the clerk of the city council shall certify to the city council that fact, together with the total amount of the cost of the same, whereupon the city council shall cause to be forwarded to the commissioners a copy of such certificate; whereupon such commissioners shall proceed to assess the cost of doing such work upon all the lots and land lying within the district to be assessed, distributing the same so that each lot will be assessed for its proportion of the same, according to the benefits it receives from the work, and in the same manner in which the damages caused by the change of grade were assessed upon the same. Such commissioners, in making such assessment, shall show the total amount for which each lot or tract is assessed, in excess of all benefits, for the total cost of changing and modifying the grade of the street, as well as the regrading, repaving, sewerage, sidewalking, and curbing of the same, and costs or damages connected therewith. The provisions of the act to which this is amendatory in regard to the mode or manner of the assessment of the cost of such work shall not apply to the work herein contemplated; neither shall the provisions of the same in regard to the issuing of bonds to represent the cost of the same, nor the provisions in regard to the right of protest against the work. [Amendment, Stats. 1893, 92.]

§ 48. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be on the assessment roll, the cost of which shall be provided for by the commissioners, as a portion of the cost of the proceedings therein. Immediately upon receipt thereof by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein. [Amendment, Stats. 1893, 93.]

§ 49. The superintendent of streets shall thereupon give notice, by publication for ten days in one or more daily newspapers published and circulated in said city, or city and county, or two successive insertions in a weekly or semi-

weekly newspaper so published and circulated, that he has received said assessment-roll, and that all sums levied and assessed in said assessment roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per centum upon the amount of such delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid" and the date of payment opposite the respective assessment so paid, and the name of the persons by or for whom said assessment is paid, and shall give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment roll, and shall add five per centum to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of such delinquency, proceed to advertise the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received, unless at the same time the five per centum added to as aforesaid, together with the cost of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments, with a notice of the time and place of sale of the property affected thereby, shall be published daily for five days, in one or more daily newspapers published and circulated in such city, or by at least two insertions in a weekly newspaper so published and circulated before the day of sale for such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption for one year, and in the same manner as in sales for delinquent state and county taxes; and the superintendent of streets shall, if there is no redemption, make and deliver to the purchaser at such sale a deed conveying the property sold, and may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law in reference to the sale and redemption of property for delinquent state and county taxes, in force at any given time, shall also then, as far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent, made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder, and of title in the grantee. The superintendent of streets shall from time to time pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating each fund by the name of the street, square, lane, alley, court, or place for the change of grade for which the assessment was made. Pay-

ments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners or a majority of them. [Amendment, Stats. 1893, 93.]

§ 50. When sufficient money is in the hands of the city treasurer, in the fund voted for the proposed work or improvement, to pay the total cost for damages, as well as for the cost of doing the work, and all other expenses connected therewith, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of the premises damaged, and to whom damages have been awarded, that a warrant has been drawn for the payment of the same, which can be received at the office of such commissioners. Such notification may be made by depositing a notice, postage paid, in the post-office, addressed to his last known place of residence. If, after the expiration of three days after the service or deposit of the notice in the post-office, he shall not have applied for such warrant, the same shall be drawn and deposited with the city treasurer, to be delivered to him upon demand. [Amendment, Stats. 1893, 94.]

§ 51. If the owner of any premises damaged neglects or refuses, for ten days after the warrant has been placed in the hands of the city treasurer, subject to his demand, to accept the same, the city council may cause proceedings to be commenced, in the name of the city, to condemn said premises, as provided by law under the right of eminent domain. The ordinance or resolution of intention shall be conclusive evidence of the necessity of the same. Such proceedings shall have precedence, so far as the business of the court will permit, and any judgment for damages therein rendered shall be payable out of the special fund in the treasury for that purpose. At any time after the trial and judgment entered, or pending appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from said fund to answer the judgment, and thereupon may authorize or order the municipality to proceed with the proposed work or improvements. In case of a deficiency in said fund to pay the whole assessed judgment and damages, the city council may, in its discretion, order the balance thereof to be paid out of the general fund of the treasury, or to be distributed by the commissioners over the property assessed by a supplementary assessment; but in the last-named case, in order to avoid delay, the city council may advance such balance out of any available fund in the treasury, and reimburse the same from the collection of assessments. The treasurer shall pay such warrants in the order of their presentation; provided, that warrants for damages and for costs of performing the work shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money remains in the fund to pay all warrants of the first class before paying any of the second. The provisions of section one thousand two hundred and fifty-one of the Code of Civil Procedure, requiring the payment of damages within thirty days after the entry of judgment, shall not apply to damages rendered in proceedings under this act. [Amendment, Stats. 1893, 95.]

§ 52. All other provisions contained in the act to which this is amendatory, and which provisions are not in conflict herewith, shall apply to all matters herein contained. All proceedings in any work or improvement, such as is provided for in this act, already commenced and now in progress under another act now in force, or by virtue of an ordinance or resolution of intention heretofore

passed, may, from any stage of such proceedings already commenced and now in progress, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act, with full force and effect in all respects from the stage of such proceedings at and from which such resolution or ordinance shall declare the intention to have such work done or improvement cease under such other acts or ordinances and continued under this act; and from such election so made all proceedings theretofore had are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again any proceedings prior to the passage of this act. [Amendment, Stats. 1893, 95.]

§ 53. The provisions of this act shall be liberally construed to permit the objects thereof. [Amendment, Stats. 1893, 96.]

Bonds.—See next following statute (1893, 33).

The general law for street improvement and construction of sewers, of 1883 (Stats. 1883, 32), was repealed by general law of 1885, 147, § 36, p. 165. This latter act has been amended as follows: § 32, 1887, 148; §§ 2, 3, 4, 5, 7, 9, 12, 13, 19, 24, 26, 34, 37, by 1889, 157; §§ 2, 3, 4, 5, 7, 9, 24, 26, 34, 35, 37, by 1891, 196; §§ 38 to 53, inclusive, were added, 1891, 461; and these latter sections were amended by 1893, 89; §§ 2, 24, and 37 were amended by 1893, 172; § 6½ was added, 1899, 23; § 35 was also amended by 1903, 88.

It may also be noted that a part IV, embracing §§ 38 to 43 inclusive, was added to the Act of 1885, by 1891, 116, but the latter was in turn repealed by § 8 of the "bond" act of 1893, 33.

As to authority for laying out, opening, widening, extending, etc., of streets, statute of 1889, 70, is entirely unaffected by statute of 1903, 376. By Act of 1893, 220, the Act of 1889, 70, was attempted to be limited to municipalities of less than forty thousand inhabitants, or, more correctly, the latter act was made to apply to cities of forty thousand or more inhabitants. The constitutionality of the Act of 1893, 220, was questioned in *Brown vs. Board of Supervisors* (though conceded for the purposes of that case), 124 Cal. 274, 277, 57 Pac. Rep. 82. Compare with *Pasadena vs. Stimson*, 91 Cal. 238, 258, 27 Pac. Rep. 604, and *Darcy vs. Mayor of San Jose*, 104 Cal. 642, 38 Pac. Rep. 500. The new enactment of 1903, 376-386, provides alternative procedure.

Consult title Municipal Corporations for various statutes relating to municipal improvement, parks, sewers, trees and hedges, and see following citations:

Thomason vs. Ruggles, 69 Cal. 465, 467, 11 Pac. Rep. 20. § 36—*Thomason vs. Ashworth*, 73 Cal. 73, 75, 14 Pac. Rep. 615; *Kittle vs. Bellegarde*, 86 Cal. 556, 558, 25 Pac. Rep. 55. § 3—*McDonald vs. Dodge*, 97 Cal. 112, 31 Pac. Rep. 909.

In the following cases it would seem that the statute of 1885 should have been referred to: *San Francisco vs. Kiernan*, 98 Cal. 614, 619, 33 Pac. Rep. 720; *Devine vs.*

Board Supervrs., 121 Cal. 670, 673, 54 Pac. Rep. 262.

See also § 2744 Pol. Code, Stats. 1883, 19-20.

STREET LAW.

Stats. 1885, 147, ch. CLII.—§ 2, subds. 1, 5, 7—*Warren vs. Postel*, 99 Cal. 294, 295, 33 Pac. Rep. 930. § 2—*Partridge vs. Lucas*, 99 Cal. 519, 521, 33 Pac. Rep. 1082. §§ 2, 7—*San Diego I. Co. vs. Shaw*, 129 Cal. 273, 274, 61 Pac. Rep. 1082. § 6—*McDonald vs. Mezes*, 107 Cal. 492, 496, 40 Pac. Rep. 808; *McBean vs. San Bernardino*, 96 Cal. 183, 185, 31 Pac. Rep. 49; *Fairchild vs. Wall*, 93 Cal. 401, 404, 29 Pac. Rep. 60; *White vs. Harris*, 103 Cal. 528, 529, 37 Pac. Rep. 502; *Anderson vs. De Urioste*, 96 Cal. 404, 405, 31 Pac. Rep. 266; *Buckman vs. Ferguson*, 108 Cal. 33, 35, 40 Pac. Rep. 1057; *Libbey vs. Elsworth*, 97 Cal. 316, 317, 32 Pac. Rep. 228; *Stansbury vs. White*, 121 Cal. 433, 435, 53 Pac. Rep. 940. § 7, subd. 1—*Ryan vs. Altschul*, 103 Cal. 174, 175, 37 Pac. Rep. 339. §§ 7, 8, 9—*Ede vs. Cuneo*, 126 Cal. 167, 171, 58 Pac. Rep. 538. §§ 7, 12—*Schmidt vs. Market St. R. Co.*, 90 Cal. 37, 40, 27 Pac. Rep. 61. §§ 7, 34—*Perine vs. Lewis*, 128 Cal. 236, 238-240, 60 Pac. Rep. 422, 772. §§ 8, 9, 10—*Oakland Bank vs. Sullivan*, 107 Cal. 428, 429, 40 Pac. Rep. 546; *McBean vs. Martin*, 96 Cal. 188, 189, 31 Pac. Rep. 5. §§ 8, 9, 10, 12—*Gillis vs. Cleveland*, 87 Cal. 215, 216, 25 Pac. Rep. 351; § 9—*Rauer vs. Lowe*, 107 Cal. 230, 233, 40 Pac. Rep. 337. §§ 9, 10—*German Sav. & L. Soc. vs. Ramish*, 138 Cal. 120, 132, 69 Pac. Rep. 89, 70 Id. 1067. §§ 9, 12—*Gray vs. Lucas*, 115 Cal. 430, 47 Pac. Rep. 354. § 10—*Foley vs. Bullard*, 99 Cal. 516, 517, 33 Pac. Rep. 1081; *Peckham vs. City of Watsonville*, 138 Cal. 242, 243, 71 Pac. Rep. 169; *Greenwood vs. Chandon*, 130 Cal. 467, 470, 62 Pac. Rep. 736. § 11—*Girvin vs. Simon*, 116 Cal. 604, 609, 48 Pac. Rep. 720; *Belser vs. Hoffschneider*, 104 Cal. 455, 458, 38 Pac. Rep. 312; *California Imp. Co. vs. Moran*, 128 Cal. 373, 378, 60 Pac. Rep. 969; *Williams vs. Viselich*, 121 Cal. 314, 315, 53 Pac. Rep. 807; *Frenna vs. Sunnyside Land Co.*, 124 Cal. 437, 441, 57 Pac. Rep. 302; *Williams vs. Bergin*, 108 Cal. 166, 169, 41 Pac. Rep. 287; *O'Dea vs. Mitchell*, 144 Cal. 374, 383, 77 Pac. Rep. 1020. § 12—*Hughes vs. Alsip*, 112 Cal. 587, 591, 44 Pac. Rep. 1027. §§ 13, 22, 23—*Martinovich vs. Wooley*, 128 Cal.

141, 143, 60 Pac. Rep. 760. §20—Flickinger vs. Fay, 119 Cal. 590, 591, 51 Pac. Rep. 855; Goodsell vs. Ashworth, 115 Cal. 222, 228, 46 Pac. Rep. 1066. §22—Goodsell vs. Ashworth, 96 Cal. 397, 398, 31 Pac. Rep. 261. §23—Doeg vs. Cook, 126 Cal. 213, 218, 58 Pac. Rep. 707. §24—Fletcher vs. Prather, 102 Cal. 413, 417, 36 Pac. Rep. 658. §§24, 27—Williams vs. Rowell, 145 Cal. 259, 261, 78 Pac. Rep. 725.

Stats. 1885, 147, generally.—McSherry vs. Wood, 102 Cal. 647, 648, 36 Pac. Rep. 1010; Hellman vs. Shoulters, 114 Cal. 136, 140, 44 Pac. Rep. 915, 45 Id. 1057; Buckman vs. Cuneo, 103 Cal. 62, 36 Pac. Rep. 1025; Dowling vs. Conniff, 103 Cal. 75, 78, 36 Pac. Rep. 1034; Wilson vs. California Bank, 121 Cal. 630, 632, 54 Pac. Rep. 119; Chase vs. Treasurer Los Angeles, 122 Cal. 540, 541, 55 Pac. Rep. 414; Warren vs. Chandos, 115 Cal. 382, 384, 47 Pac. Rep. 132; Corbett vs. Chambers, 109 Cal. 178, 181, 41 Pac. Rep. 873; Harney vs. Benson, 113 Cal. 314, 317, 45 Pac. Rep. 687; (8-hour day) Williams vs. Savings & L. Soc., 97 Cal. 122, 123, 31 Pac. Rep. 908; San Francisco vs. Kiernan, 98 Cal. 614, 620, 33 Pac. Rep. 720; Eisenhuth vs. Ackerson, 105 Cal. 87, 90, 38 Pac. Rep. 530; Chase vs. Scheerer, 136 Cal. 248, 63 Pac. Rep. 768; Thomason vs. Ruggles, 69 Cal. 465, 467, 11 Pac. Rep. 20; Witter vs. Bachman, 117 Cal. 318, 319, 49 Pac. Rep. 202; Bay Rock Co. vs. Bell, 133 Cal. 150, 65 Pac. Rep. 299; San Francisco Pav. Co. vs. Bates, 134 Cal. 39, 66 Pac. Rep. 2; Chapman vs. Ames, 135 Cal. 246, 67 Pac. Rep. 1125; De Haven vs. Berendes, 135 Cal. 178, 67 Pac. Rep. 786; Grant vs. Barber, 135 Cal. 188, 67 Pac. Rep. 127; Blanchard vs. Ladd, 135 Cal. 212, 67 Pac. Rep. 130; Blochman vs. Spreckels, 135 Cal. 662, 67 Pac. Rep. 1061, 57 L. R. A. 213; Goldtree vs. Spreckels, 135 Cal. 666, 67 Pac. Rep. 1091; Oakland Pav. Co. vs. Hilton, 69 Cal. 479, 486, 11 Pac. Rep. 3; Oakland Pav. Co. vs. Tompkins, 72 Cal. 5, 6, 10, 1 Am. St. Rep. 17, 12 Pac. Rep. 801; Thomason vs. Ashworth, 73 Cal. 73, 75, 14 Pac. Rep. 615; People ex rel. Daniels vs. Henshaw, 76 Cal. 436, 453, 18 Pac. Rep. 413; Schaefe vs. Doyle, 86 Cal. 107, 108, 24 Pac. Rep. 834; Perine vs. Erzgraber, 102 Cal. 234, 236, 36 Pac. Rep. 585; Vincent vs. Pacific Grove, 102 Cal. 405, 406, 36 Pac. Rep. 773.

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Rep. 945; Manning vs. Den, 90 Cal. 610, 613, 27 Pac. Rep. 435. §§5, 11, 12—Perine vs. Forbush, 97 Cal. 305, 308, 32 Pac. Rep. 226. **Stats. 1887, 148, ch. CXXX.—**Williams vs. Rowell, 145 Cal. 259, 261, 78 Pac. Rep. 725.

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Russell, 128 Cal. 349, 60 Pac. Rep. 1130. § 12½—Kelso vs. Cole, 121 Cal. 121, 123, 53 Pac. Rep. 353. § 16—Page vs. W. W. Chase Co., 145 Cal. 578, 583, 79 Pac. Rep. 278. § 18—City of Santa Ana vs. Brunner, 132 Cal. 234, 236-239, 64 Pac. Rep. 287. § 34—Reid vs. Clay, 134 Cal. 207, 215, 66 Pac. Rep. 262; O'Dea vs. Mitchell, 144 Cal. 374, 380, 77 Pac. Rep. 1020.

Same statute, generally.—Eisenhuth vs. Ackerson, 105 Cal. 87, 90, 38 Pac. Rep. 530; McSherry vs. Wood, 102 Cal. 647, 650, 36 Pac. Rep. 1010; Hellman vs. Shoulters, 114 Cal. 136, 154, 44 Pac. Rep. 915, 45 Id. 1057; Witter vs. Backman, 117 Cal. 318, 319, 49 Pac. Rep. 202; Williams vs. Bergin, 127 Cal. 578, 60 Pac. Rep. 164; Union Pav. Co. vs. McGovern, 127 Cal. 638, 60 Pac. Rep. 169; Haughawout vs. Hubbard, 131 Cal. 675, 677, 63 Pac. Rep. 1078; Williams vs. Rowell, 145 Cal. 259, 261, 78 Pac. Rep. 725; Alameda Macadamizing Co. vs. Pringle, 130 Cal. 226, 227, 80 Am. St. Rep. 124, 62 Pac. Rep. 394, 52 L. R. A. 264.

Stats. 1891, 116, ch. CXIV.—§ 41—Ellis vs. Witmer, 134 Cal. 249, 250, 66 Pac. Rep. 301.

Same—Statute generally.—Howland vs. Board Supervrs., 109 Cal. 152, 155, 41 Pac. Rep. 864; Quinchard vs. Board Supervrs., 113 Cal. 664, 671, 45 Pac. Rep. 856; Hellman vs. Shoulters, 114 Cal. 136, 140, 44 Pac. Rep. 915, 45 Id. 1057; Warren vs. Chandos, 115 Cal. 382, 384, 47 Pac. Rep. 132; Chase vs. Treasurer Los Angeles, 122 Cal. 540, 541,

55 Pac. Rep. 414; Blochman vs. Spreckels, 135 Cal. 662, 663, 67 Pac. Rep. 1061, 57 L. R. A. 213; Williams vs. Rowell, 145 Cal. 259, 261, 78 Pac. Rep. 725.

Stats. 1891, 196, ch. CXLVII.—§ 2—Schwiesau vs. Mahon, 128 Cal. 114, 115-117, 60 Pac. Rep. 683 (overruling Deady vs. Townsend, 57 Cal. 298); Smith vs. Hazard, 110 Cal. 145, 147, 42 Pac. Rep. 465. § 3—San Jose I. Co. vs. Auzerais, 106 Cal. 498, 499, 39 Pac. Rep. 859; Pacific Pav. Co. vs. Geary, 136 Cal. 373, 68 Pac. Rep. 1028; Thomason vs. Carroll, 132 Cal. 148, 149-151, 64 Pac. Rep. 262; Stansbury vs. White, 121 Cal. 433, 435, 53 Pac. Rep. 940; City Street Imp. Co. vs. Babcock, 123 Cal. 205, 55 Pac. Rep. 762; Warren vs. Russell, 129 Cal. 381, 383, 62 Pac. Rep. 75; O'Dea vs. Mitchell, 144 Cal. 374, 377-379, 77 Pac. Rep. 1020; King vs. Lamb, 117 Cal. 401, 404, 49 Pac. Rep. 561. § 5—Girvin vs. Simon, 116 Cal. 604, 608, 48 Pac. Rep. 720. § 7—Martin vs. Wagner, 120 Cal. 623, 624, 53 Pac. Rep. 167. § 7, subds. 1, 12—Redondo Beach vs. Cate, 136 Cal. 146, 148, 68 Pac. Rep. 586. § 7, subd. 12—Greenwood vs. Morrison, 128 Cal. 350, 351, 60 Pac. Rep. 971. §§ 7, 8—Kenny vs. Kelly, 113 Cal. 264, 365, 45 Pac. Rep. 699. § 9—Moffitt vs. Jordan, 127 Cal. 622, 623, 60 Pac. Rep. 173; Rauer vs. Lowe, 107 Cal. 230, 233, 40 Pac. Rep. 337. §§ 9, 10—City Street Imp. Co. vs. Emmons, 138 Cal. 297, 298, 71 Pac. Rep. 332. §§ 9, 11—Cotton vs. Watson, 134 Cal. 422, 424, 66 Pac. Rep. 490.

STREET LAW—BONDS.

To provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvement within municipalities, and also for the payment of such bonds.

(Stats. 1893, 33, ch. XXI; amended 1899, 40, ch. XLII.)

§ 1. Wherever in this act the phrase "street work act" is used, it means, and shall be taken to mean, the act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, and all acts amendatory thereof or supplementary thereto; and wherever in this act the name of any municipal body or officer is used, or any word or phrase is used which is not herein expressly defined, it means and shall be taken to mean such municipal body or officer, or word or phrase, as the same is expressly defined in said street work act, and in all acts amendatory thereof or supplementary thereto.

§ 2. Whenever the city council of any municipality in this state shall find, upon estimates of the city engineer, that the cost of any proposed work or improvement authorized by said street work act will be greater than fifty cents per front foot along each line of the street so proposed to be improved, including the cost of intersection work assessable upon said frontage, it shall have the power, in its discretion, to determine that serial bonds shall be issued to represent the cost of said work or improvement, in the manner and form hereinafter provided. Said serial bonds shall extend over a period not to exceed ten years

from their date, and an even annual proportion of the principal sum thereof shall be payable, by coupon, on the second day of January every year after their date, until the whole is paid, and the interest shall be payable semiannually, by coupon, on the second days of January and July, respectively, of each year, at the rate of not to exceed ten per centum per annum on all sums unpaid, until the whole of said principal and interest are [is] paid. Said bonds and interest thereon shall be paid at the office of the city treasurer of said municipality, who shall keep a fund designated by the name of said bonds, into which he shall receive all sums paid him for the principal of said bonds and the interest thereon, and from which he shall disburse such sums, upon the presentation of said coupons; and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said city treasurer shall keep a register in his office, which shall show the series, number, date, amount, rate of interest, payee and indorsees of each bond, and the number and amount of each coupon or principal or interest paid by him, and shall cancel and file each coupon so paid. [Amendment, Stats. 1899, 40.]

§ 3. When said city council shall determine that serial bonds shall be issued to represent the expenses of any proposed work or improvement under said street work act, it shall so declare in the resolution of intention to do said work, and shall specify the rate of interest which they shall bear. The like description of said bonds shall be inserted in the resolution ordering the work, in the resolution of award, and in all notices of said proceedings required by said street work act to be either posted or published; and also a notice that a bond will issue to represent each assessment of twenty-five dollars or more remaining unpaid for thirty days after the date of the warrant, or five days after the decision of said council upon an appeal, and describing the bonds, shall be included in the warrant provided for in section nine of said street work act. [Amendment, Stats. 1899, 40.]

§ 4. After the full expiration of thirty days from the date of the warrant, or if an appeal be taken to the city council, as provided in section eleven of said street work act, then five days after the final decision of said council, and after the street superintendent shall have recorded the return, as provided in section ten of the same act, the street superintendent shall make and certify to the city treasurer a complete list of all assessments unpaid, which amount to twenty-five dollars or over, upon any assessment or diagram number; and said treasurer shall thereupon make out, sign, and issue to the contractor, or his assigns, payee of the warrant and assessment, a separate bond, representing upon each lot or parcel of land upon said list the total amount of the assessments against the same, as thereon shown. And if said lot or parcel of land is described upon said assessment and diagram by its number or block, or both, and is also designated by its number or block, or both, upon the official map of said municipality, or upon any map on file in the office of the county recorder of the county in which said municipality is situated, then it shall be in said bond a sufficient description of said lot or parcel of land to designate it by said number or block, or both, as it appears on said official or recorded map.

Said bond shall be substantially in the following form:

Series (designating it), in the city (or other form of the municipality) of (naming it).

\$———100.

No. ——.

Under and by virtue of an act of the legislature of the state of California (title of said act), I, out of the fund for the above designated street improvement bonds, series ——, will pay to ——, or order, the sum of ——dollars (\$——) with interest at the rate of —— per centum per annum, all as is hereinafter specified, and at the office of the —— treasurer of the —— of ——, state of California. This bond is issued to represent the cost of certain street work upon ——, in the —— of ——, as the same is more fully described in assessment number ——, issued by the street superintendent of said ——, after his acceptance of said work, and recorded in his office. Its amount is the amount assessed in said assessment against the lot or parcel of land numbered therein, and in the diagram attached thereto, as number ——, and which now remains unpaid, but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit: the lot or parcel of land in said —— of ——, county of ——, state of California, ——.

This bond is payable exclusively from said fund, and neither the municipality nor any officer thereof is to be holden for payment otherwise of its principal or interest. The term of this bond is —— years from its date, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date an even annual proportion of its whole amount is due and payable, upon presentation of the coupon therefor, until the whole is paid, with all accrued interest at the rate of —— per centum per annum.

The interest is payable semiannually, to wit: on the second days of January and of July in each year hereafter, upon presentation of the coupons therefor, the first of which is for the interest from date to the next second day of ——, and thereafter the interest coupons are for semiannual interest, except the last, which is for interest from the semiannual payment next preceeding and to the date of the final maturity of this bond.

Should default be made in the annual payment upon the principal, or in any payment of interest from the owner of said lot or parcel of land, or any one in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law.

At said —— of ——, this —— day of ——, in the year one thousand —— hundred and ——.

_____,
City treasurer of the —— of ——.

Provided, that in case the amount of unpaid assessments upon any lot or parcel of land shall be less than twenty-five dollars, then the same shall be collected as is hereinbefore provided in part one of said street work act.

Provided, also, that if any person, or his authorized agent, shall at any time before the issuance of the bond for said assessment upon his lot or parcel of land present to the city treasurer his affidavit, made before a competent officer, that

he is the owner of a lot or parcel of land in said list, accompanied by the certificate of a searcher of records that he is such owner of record, and with such affidavit and certificate such person notifies said treasurer in writing that he desires no bond to be issued for the assessments upon said lot or parcel of land, then no such bond shall be issued therefor, and the payee of the warrant, or his assigns, shall retain his right for enforcing collection as if said lot or parcel of land had not been so listed by the street superintendent.

The bonds so issued by said treasurer shall be payable to the party to whom they issue, or order, and shall be serial bonds, as is hereinbefore described, and shall bear interest at the rate specified in the resolution of intention to do said work. They shall have annual coupons attached thereto, payable in annual order, on the second day of January in each year after the date of the bond, until all are paid, and each coupon shall be for an even annual proportion of the principal of the bond. They shall have semiannual interest coupons thereto attached, the first of which shall be payable upon the second day of January or July, as the case may be, next after its date, and shall be for the interest accrued at that time, and the last of which shall be for the amount of interest accruing from the second day of January or July, as the case may be, next preceding the maturity of said bonds to the maturity thereof. The city treasurer shall, in addition to his other duties in the premises, report all coupon payments of principal upon said bonds to the street superintendent, who shall forthwith indorse the same upon the margin of the record of the assessment to the credit of which the same is paid, and said assessment shall be a first lien upon the property affected thereby until the bond issued for the payment thereof, and the accrued interest thereon, shall be fully paid. Said bonds, by their issuance, shall be prima facie evidence of the regularity of all proceedings thereto under said street work act and this act, previous to the making of the certified list of all assessments unpaid to the amount of twenty-five dollars or over by the street superintendent, to the city treasurer, and of the validity of said lien, up to the date of said list. [Amendment, Stats. 1899, 41.]

§ 5. Whenever, through the default of the owner of any lot or parcel of land to represent the assessment upon which such bond has been, or may hereafter be, issued, and payment, either upon the principal, or of the interest, has not been, or shall not be made when the same has become, or shall become due, and the holder of the bond thereupon demands, in writing, that the said city treasurer proceed to advertise and sell said lot or parcel of land, as herein provided, then the whole bond, or its unpaid remainder, with its accrued interest, as expressed in said bond, shall become due and payable immediately, and on the day following shall become delinquent.

Subdivision a. Upon the application of the holder of any bond that is now or shall hereafter become delinquent as provided in this section, the said city treasurer shall publish for two weeks in a newspaper of general circulation, to be designated by him, published in the city where his office is situated, a notice which must contain the date, number, and series of the delinquent bond, a description of the property mentioned in said bond, and the name of the owner of such property (if known), and if unknown, the fact shall be so stated, the amount due thereon, and a statement that unless the amount of said bond and the interest due thereon, together with the cost of publication of such notice, are

paid, the real property described in said bond will be sold at public auction on a day to be therein fixed, which shall not be less than fifteen nor more than thirty days from the day of the first publication of said notice, and the place of such sale, which must be the office of the said city treasurer.

Subdivision b. The city treasurer, before the day of sale hereinafter provided for, must file with the city clerk a copy of the publication, with an affidavit of the publisher of such newspaper, or some one in his behalf, attached thereto, that it is a true copy of the same; that the publication was made in a newspaper, stating its name and place of publication and the date of each appearance in which such publication was made—which affidavit is primary evidence of all the facts stated therein.

Subdivision c. The city treasurer must collect, in addition to the amount due on such bond, the cost of the publication of such notice, and fifty cents for the certificate of sale, as hereinafter provided.

Subdivision d. At any time prior to the sale, the owner or person in possession of any real estate offered for sale under the provisions of this act may pay the whole amount of said bond then due, with costs, and such bond shall thereupon be canceled; but in case such payment is not made by such owner, or person in possession, or by some one in behalf of such owner, or person in possession, the property subject thereto shall be sold as herein provided.

Subdivision f. The city treasurer, before delivering any certificate, must, in a book kept in his office for that purpose, enter the date, number, and series of the bond, a description of the land sold corresponding with the description in the certificate, the date of sale, purchaser's name, the amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection during office hours when not in actual use, and he shall enter on the record of the bond the words "Canceled by sale of the property," giving the date of such sale.

Subdivision g. Immediately on the sale, the purchaser shall become vested with a lien on the property, so sold to him, to the extent of his bid, and is only divested of such lien by the payment to the city treasurer of the purchase money, including costs herein provided for, with interest thereon at the rate of one per centum per month from the date of sale.

Subdivision h. A redemption of the property sold may be made by the owner of the property, or any party in interest, within twelve months from the date of purchase, or at any time prior to the application for a deed, as hereinafter provided. Redemption must be made in lawful money of the United States, and when made to the city treasurer he must credit the amount paid to the person named in his certificate, and pay it on demand to him or his assignees.

Subdivision i. On receiving the certificate of sale, the recorder must file it, and make an entry in a book similar to that required of the city treasurer, the fee for which shall be fifty cents, and on presentation of the receipt of the city treasurer for the total amount of the redemption money, the recorder must, without charge, mark the word "Redeemed," the date, and by whom redeemed, on the margin of the book where the entry of the certificate is made.

Subdivision j. If the property is not redeemed within the time allowed by subdivision h hereof for its redemption, the city treasurer, or his successor in office, upon application of the purchaser or his assignee, must make to said pur-

chaser, or his assignee, a deed to the property, reciting in the deed, substantially, the matter contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption; the treasurer shall be entitled to receive from the purchaser two dollars for making said deed, which shall be deposited in the city treasury for the use of the city after payment has been made therefrom for the acknowledgment of said deed; provided, however, that the purchaser of the property, or his assignee, must, thirty days prior to the expiration of the time of the redemption, or thirty days before his application for a deed, serve upon the owner or agent of the property purchased, if named in such certificate, and upon the party occupying the property, if the property is occupied, a written notice, stating that said property, or a portion thereof, has been sold to satisfy the bond lien, the date of sale, the date, number, and series of the bond, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for a deed, and the owner of the property shall have the right of redemption indefinitely, until such notice shall have been given and said deed applied for, upon the payment of the fees, penalties, and costs in this act required. In case of unoccupied property, a similar notice must be posted in a conspicuous place upon the property at least thirty days before the expiration of the time for redemption, or thirty days before the purchaser applies for a deed; and no deed to the property sold, in accordance with the provisions of this act, shall be issued by the city treasurer to the purchaser of such property, until such purchaser shall have filed with such treasurer an affidavit showing that the notice hereinbefore required to be given has been given as herein required, which said affidavit shall be filed and preserved by the said treasurer as other records kept by him in his office. Such purchaser shall be entitled to receive the sum of fifty cents for his service of such notice and the making of said affidavit, which sum of fifty cents shall be paid by redemptioner at the time and in the same manner as the other sums, costs, and fees are paid.

Subdivision k. The deed, when duly acknowledged or proved, is primary evidence of the regularity of all proceedings theretofore had, and conveys to the grantee the absolute title to the lands described therein, as of the date of the expiration of the period for redemption, free of all encumbrances, except the lien for state, county, and municipal taxes. [Amendment, Stats. 1899, 43.]

§ 6. Whenever any railroad track or tracks of any description exists upon any street or streets on which the city council has ordered work to be done or improvements made, excepting therefrom such portions as is [are] required by law to be kept in order or repair, by any person or company having railroad tracks thereon, the said council may, at any time thereafter, order such person or company to perform upon said excepted portion the work or improvements, similar in all respects to that already ordered to be performed under the same specifications and superintendence, with the same materials, within the same time, and to the like satisfaction and acceptance. Thereupon it shall be the duty of the clerk of said council to deliver immediately a copy of such order, certified by him, to such person or company, and to make and preserve in his office a certificate of such delivery, its date, and upon whom made. Should such person or company, for thirty days, or within such extension of time as the city council may grant, thereafter refuse or neglect to make or have made such work

or improvement in the manner or time ordered, it shall be the duty of the city council to have such work or improvement performed, and such refusal or neglect punished in the manner provided by law. Within fifteen days after receiving the certified copy of said order, such person or company may file with the clerk of said council a written assumption of the performance of said work or improvement, according to the order, or a request to the council to have such work or improvement performed, for and at the expense of such person or company, in the manner herein provided. The failure to file such instrument within said time shall be taken and deemed to be a refusal to comply with the order. Upon reception of said assumption of the direct performance of said work or improvement, the city council shall take no further proceedings in the matter, unless such person or company neglects or fails for thirty days, or such further time as the council may grant, to comply with the provisions of the order. But if such person or company files the said request that the said council have such work or improvement performed, or fails to perform said work within thirty days, or within such further time as the council may grant, then said city council may pass an ordinance of intention to perform said work, which ordinance shall specify the work to be performed, and a statement that unless within thirty days after the recording of the return of the warrant, or within five days after the final decision of the council on an appeal, the said person or company shall pay the cost of said work, or the street superintendent of said city shall issue bonds to represent the cost of said work, stating also that the cost of said work, in case bonds shall issue, shall be paid in ten yearly instalments, and also the rate of interest (not to exceed ten per centum per annum) that the same shall bear. The subsequent procedure shall be as provided by the "Street Work Act." A similar statement shall also be incorporated in all notices required to be posted or published by the provisions of the "Street Work Act"; also in the ordinance or resolution ordering the work, advertisement for proposals, and in the contract. Whenever the person or company owning any such railroad shall not have, within thirty days after the recording of the return of the warrant, or within five days after the final decision of the council on an appeal, paid the cost of such work, the street superintendent shall issue to the contractor, or his assigns, bonds for the amount of such cost, which shall describe the franchise, tracks, and roadbed along or between which said work has been performed, and describing the same as upon the assessment and diagram, giving its assessment number. Such bonds shall also describe the work performed, giving the total amount of the cost of such work, the name of the owner of said railroad, the number of instalments in which the cost of the work is to be paid, and the rate of interest which the deferred payments shall bear. Said bonds shall be in sums of not less than one hundred dollars or more than one thousand dollars, and shall recite that the total amount of the cost of such work, together with the interest thereon, as represented in said bonds, is, except state, county, and municipal taxes, a first lien upon all the track, roadbed, switches, and franchises of said railroad lying within the corporate limits of the city or town, on any part of which said work has been performed. Said street superintendent shall also keep a record of such bonds, as required by section eighteen of the "Street Work Act." Whenever bonds have been issued, as herein provided, the same, together with the cost of such work and the interest thereon, shall be, except state, county,

or municipal taxes, a first lien upon all the tracks, roadbed, switches, and franchises of said railroad within the corporate limits of the city or town, on any part of which said work has been performed. Sections four and five of this act, regarding the form, issuance, and foreclosure of street bonds, and the sale of property described therein, shall apply hereto, except that the work required to be performed by the treasurer by said sections shall be performed by the street superintendent, in so far as the bonds for the paving of railroads are concerned. None of the provisions of the "Street Work Act" in regard to a protest against the work shall apply to any work contemplated by this section. All provisions of the "Street Work Act" not inconsistent with the provisions hereof shall apply hereto.

§ 7. The term "city treasurer," as used in this act, shall be held to mean and include any person who, under whatever name or title, is the custodian of the funds of the municipality.

§ 8. The act entitled "An act to amend an act entitled 'An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for construction of sewers within municipalities,' approved March eighteenth, eighteen hundred and eighty-five, by adding thereto an additional part, numbered four, consisting of sections thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, and forty-four, relative to a system of street improvement bonds," approved March seventeenth, eighteen hundred and ninety-one, is hereby repealed, except as to any and all proceedings hitherto commenced thereunder, which proceedings may be completed and have full force as is therein provided.

§ 9. This act shall take effect and become of force from and after its passage.

STREET LAW—CITIES OVER FORTY THOUSAND.

To provide for laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities or cities and counties of forty thousand inhabitants or over, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

(Stats. 1893, 220, ch. CLXXXVI.)

§ 1. Be it enacted: Whenever the public interest or convenience may require, the city council of any municipality or cities and counties, containing over forty thousand inhabitants, shall have full power to order, and upon the petition of the owners of a majority of the frontage to be taken for said purpose shall order, the opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, of any street, square, lane, alley, court, or place within the bounds of such city, and shall condemn and acquire any and all lands necessary or convenient for that purpose.

§ 2. Before ordering any work to be done or improvement made, which is authorized by section one of this act, the city council shall then pass a resolution declaring the intention to do said work, describing the work or improvement, and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the district of land to be affected or benefited by said work or improvement, and be assessed to pay the damages, cost, and expense thereof.

§ 3. The street superintendent shall then cause to be conspicuously posted along the line of said contemplated work or improvement, and not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed, "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, state the fact of the passage of the resolution, its date, and, briefly, the work of improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice similar in substance to be published for a period of ten days in one or more daily newspapers published and circulated in said city, and designated by said city council; or if there is no daily newspaper so published and circulated in said city, then by four successive insertions in a weekly or semiweekly newspaper so published, circulated, and designated.

§ 4. Any person through whose lands said proposed street extension runs, or who will be damaged or affected by said proposed work, may, within ten days after the first publication of said notice, file with the clerk of the city council his written objections thereto, stating in what manner and to what extent he will be damaged, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and at the next meeting of the city council, after the expiration of said ten days, lay said objections before said city council, which shall fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections by depositing a notice thereof in the post-office of said city, postage prepaid, addressed to such objector.

§ 5. At the time specified, or to which the hearing may be adjourned, the city council shall hear the objections filed, and if the owners of a majority of the frontage of all lands to be assessed for benefits, as said owners appear on the last preceding annual assessment roll for state and county taxes, object, in writing, to said proposed opening, extending, and widening, straightening, diverging, curving, contracting, or closing up of said street, said city council shall sustain said objections, and all proceedings therefor shall be stopped for the period of twelve months. Proceedings may be again commenced by a new resolution of intention. If the owners of a majority of the frontage of all streets within the assessment district do not object, in writing, thereto, within the time specified in this act, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done or improvements to be made which is authorized by section one of this act.

§ 6. Having acquired jurisdiction, as provided in the preceding section, the city council shall order said work to be done, and, unless the proposed work is for closing up, and it appears that no assessment is necessary, shall appoint three disinterested persons, who shall constitute a board of commissioners in that regard, who shall have full supervision of the proposed work or improvement until the completion thereof in compliance with this statute. For their services they shall each receive, as compensation, not to exceed five dollars for every day of actual service; provided, that said compensation shall not be paid for a longer term than six months for each district, unless extended by the council. Such extension shall not exceed two months at one time, nor shall the term of office of said commissioners, for any district, continue for longer than one year. Such compensation shall be added to and be chargeable as a part of

the expenses of the work or improvement. Each of said commissioners shall file with the clerk of the city council an affidavit and a bond to the state of California, in the sum of five thousand dollars, to faithfully perform the duties of his office. The city council may at any time remove any or all of said commissioners for cause upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause. At the end of the terms of said commissioners, they shall hand over all unfinished business to the city council, who shall complete the same. In all municipalities where there is a board of public works such board shall constitute the board of commissioners in this section provided for, and shall perform the duties of such commissioners, and their salaries as members of the board of public works shall be in full compensation for such services. It shall be the official duty of the city attorney to render said commissioners all necessary legal services; provided, that the city surveyor shall, for any work or services which he may perform by the direction of the common council or other legislative department of the city government, receive, in addition to his salary allowed by law, all sums which he may lay out, pay out, or expend in the prosecution of said work, for materials or labor necessarily therein by him employed.

§ 7. Said commissioners shall have an office assigned to them by the city council, in the city hall, and shall have power to employ a secretary, at a salary not to exceed one hundred and fifty dollars per month, and such other clerical assistance as shall be provided them by the city council, the salaries and fees of whom shall be established and fixed by said city council.

§ 8. All such charges and expenses shall be deemed as expenses of said work of [or] improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereinafter. All payments, as well for the land and improvements taken or damaged, and for the charges and expenses, shall be paid by the city treasurer, upon warrants drawn upon said fund from time to time, signed by said commissioners, or a majority of them. All such warrants shall state whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is only payable out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor a claim against the city.

§ 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath, to be administered by any of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land, and the damage to improvement and property affected, and also the amount of the expenses incident to said work or improvement, and having determined the same, shall proceed to assess the same upon the lands described in said district herein provided. The lands fronting on said extension or widening shall only be assessed to the depth of one hundred and twenty feet, or the full depth of the lots, not exceeding one hundred and fifty feet; and said lands shall be assessed with reference to the amount of grading to be done, and their location on the grades of said street or improvement; and the expenses of grading said lots or lands, whether filling or cutting shall be necessary to place them on the grade of said street or improvement, shall be

estimated in determining the value of the land, and the damage to the improvement and property affected.

§ 10. Said commissioners, having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof, to the city council, and shall accompany their report with a plat showing the land taken, or about to be taken, for the work or improvement, and the lands assessed, showing the relative location of each district, block, lot, or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

§ 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimant thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interests, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

§ 12. If in any case the commissioners find conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any lot of land, or of any improvements thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or of the particulars of their interest, shall not affect the validity of the assessment or the condemnation of the property to be taken.

§ 13. Said report and plat shall be filed in the clerk's office of the city council, and thereupon the clerk of said city council shall give notice of such filing by publication for at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily newspaper, by three successive insertions in a weekly or semiweekly newspaper so published and circulated. Said notice shall also require all persons interested to show cause, if any, why such report should not be confirmed, before the city council, on or before a day fixed by the clerk thereof, and stated in said notice, which day shall be not less than thirty days from the first publication thereof.

§ 14. All objections shall be in writing, and filed with the clerk of the city council, who shall, at the next meeting after the day fixed in the notice to show cause, lay the said objections, if any, before the city council, which shall fix a time for hearing the same, of which the clerk shall notify the objectors in the same manner as objectors to the original resolution of intention. At the time set, or at such other time as the hearing may be adjourned to, the city council shall hear such objections and pass upon the same; and at such time, or if there be no objections at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct or modify, or may sustain the objections thereto and order the commissioners to make a new report, assessment, and plat, which in either

case shall be filed, and notice given and hearing had, as in the case of the original report; but no report, or plat, or assessment shall be filed by said commissioners after the expiration of ten months after their appointment.

§ 15. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment roll, and thirty days after such filing shall become a lien on the property assessed therein, for its proportion of the costs of said improvement, as hereinbefore provided.

§ 16. The superintendent of streets shall thereupon give notice by publication for ten days in two daily newspapers published and circulated in said city and county, or by two successive insertions in a weekly or semiweekly newspaper so published and circulated, that he has received said assessment roll, and that all sums levied and assessed in said assessment roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per centum upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid" and the date of payment opposite the respective assessments so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment roll, and shall add five per centum to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of said sale herein provided for, no assessment shall be received unless at the same time the five per centum added thereto, as aforesaid, together with the cost of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time shall also then, so far as the same are not in conflict with the provisions of this act, be applicable

to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and the execution of deeds. The deed of the street superintendent made after such sales, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor. The superintendent of streets shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating such fund by the name of the street, square, lane, alley, court, or place for the widening, opening, or other improvement of which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners, or a majority of them.

§ 17. When sufficient money is in the hands of the city treasurer, in the fund devoted to the proposed work or improvement, to pay for the land or improvements taken or damaged, and when, in the discretion of the commissioners, or a majority of them, the time shall have come to make payments, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of any land or improvements thereon to whom damages shall have been awarded that a warrant has been drawn for the payment of the same, and that he can receive such warrant at the office of such commissioners, upon tendering a conveyance of any property to be taken; such a notification, except in the case of unknown owners, to be made by depositing a notice, postage paid, in the post-office, addressed to his last known place of abode or residence. If, at the expiration of thirty days after the deposit of such notice, he should not have applied for such warrant and tendered a conveyance of the land to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor, or occupant, upon tendering a conveyance as aforesaid, unless judgment of condemnation shall be had, when the same shall be canceled.

§ 18. If any owner of land to be taken neglects or refuses to accept the warrant drawn in his favor, as aforesaid, or objects to the report as to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage and condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings herein provided for, and the resolution and ordinance ordering said work to be done shall be conclusive evidence of such necessity. Such proceedings shall be brought in the name of the municipality, and have precedence, so far as the business of the court will permit; and any judgment for damages therein rendered shall be payable out of such portion of the special fund as may remain in the treasury, so far as the same can be applied. At any time after trial and judgment entered, or preceding an appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the fund appropriated to the particular improvement, to answer the judgment and all damages, and thereupon may authorize and order the municipality to enter upon the land and proceed with the proposed work and improvement. In case of a deficiency in said fund to

pay the whole of said judgment and damages, the city council shall order the balance thereof to be paid out of the general fund of the treasury.

§ 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

§ 20. If any title attempted to be acquired by virtue of this act shall be found to be defective from any cause, the city council may again institute proceedings to acquire the land as in this act provided, or otherwise, or may authorize the commissioners to purchase the same, and include the cost thereof in a supplementary assessment, as provided in the last section.

§ 21. 1. The words "work" and "improvement," as used in this act, shall include all work mentioned in section one of this act.

2. In case there is no daily or weekly or semiweekly newspaper printed and circulated in the city, then such notices as are herein required to be published in a newspaper shall be posted and kept posted for the length of time required herein for the publication of the same in a weekly newspaper, in three of the most public places in such city. Proof of the publication of posting of any notice provided for herein shall be made by affidavit of the owner, publisher, or clerk of the newspaper, or of the poster of the notice.

3. The word "municipality" and the word "city" shall be understood and so construed as to include all corporations heretofore organized and now existing, or hereafter organized, for municipal purposes.

4. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets, and all the provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such persons so appointed.

5. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

6. The term[s] "clerk" and "city clerk," as used in this act, is [are] hereby declared to include any person or officer who shall be clerk of said city council.

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer who shall have charge and make payment of the city funds.

§ 22. The mayor, tax collector, and city or city and county attorney, as the case may be, of all municipalities wherein there is existing at the passage of this act any commission appointed for the opening, extending, or widening of streets under the provision of said act of March sixth, eighteen hundred and eighty-nine, and which commission is not within the proviso of section twenty-three of this act, are hereby constituted a board of audit, whose duty it shall be, upon

petition of said commission, to carefully examine all the accounts, bills, and expenditures, made or contracted for by said commission, including the salaries of the said commissioners; and said board of audit, or a majority of its members, is hereby authorized to audit and allow such amounts as it shall find to be just and reasonable, and report said amounts, with the items thereof and to whom payable, to the city council. Said report shall be final and conclusive as to said amounts. The city council is authorized to pass and allow and order paid to each of the persons entitled thereto, the amounts so found to be due, in the same manner as claims and demands against such municipality are passed, allowed, and ordered paid. The payment of said amounts shall be provided for in the tax levy next thereafter made by said city council, and when said taxes are collected the said amounts shall be paid out of the general fund of said municipality in the same manner as other claims and demands are paid.

§ 23. The act approved March sixth, eighteen hundred and eighty-nine, entitled an act for opening, widening, and extending streets, et cetera, after the passage of this act, shall not apply to any city or city and county having a population of forty thousand inhabitants or over; but as to any city or city and county having a population of forty thousand or over said act shall not apply; but said cities and cities and counties shall be subject only to the provisions of this act in all matters embraced within the purview of this act; provided, however, that the present city council or other governing body of any municipality of forty thousand inhabitants or over shall have power, by a three-fourths vote of its members, to extend the life of any existing commission until its work shall have been completed as in said act provided; but in all other cases in cities or cities and counties of forty thousand inhabitants or over, the assessments, plats, and reports filed by said commissioners are declared to be null and void, and all moneys collected under the provisions of said act shall be refunded to the persons from whom the same were collected, in the same manner as taxes which have been twice collected, and the said commissioners are hereby removed from office; provided further, however, that in case of the lands necessary to widen or open any street, there shall have been actually purchased and conveyed to the municipality, under the provisions of said act of March sixth, eighteen hundred and eighty-nine, more than one half of the land necessary for said improvements, as shown by the report and plat on file, then said streets, and the improvement thereof, shall not be affected by this act, but the same shall be completed as commenced.

§ 24. This act shall be liberally construed, to promote the objects thereof.

This act shall take effect and be in force from the time of its passage.

Porphry P. Co. vs. Ancker, 104 Cal. 340, 444, 58 Pac. Rep. 920. § 2—O'Dea vs. Mitchell, 341, 37 Pac. Rep. 1050; Los Angeles L. Co. 144 Cal. 374, 379, 77 Pac. Rep. 1020. §§ 4, 5—vs. Los Angeles, 106 Cal. 156, 158, 39 Pac. German Sav. & L. Soc. vs. Ramish, 138 Cal. Rep. 535; Ramish vs. Hartwell, 126 Cal. 443, 120, 124, 125, 69 Pac. Rep. 89, 70 Id. 1067.

STREET LAW—OPENING, WIDENING, ETC.

To provide for laying out, opening, extending, widening, straightening, or closing up in whole or in part any street, square, lane, alley, court, or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

(Stats. 1889, 70, ch. LXXVI.)

§ 1. Whenever the public interest or convenience may require, the city council of any municipality shall have full power and authority to order the opening, extending, widening, straightening, or closing up in whole or in part of any street, square, lane, alley, court, or place within the bounds of such city, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

§ 2. Before ordering any work to be done or improvement made which is authorized by section one of this act, the city council shall pass a resolution declaring its intention to do so, describing the work or improvement, and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the damages, cost, and expenses thereof.

§ 3. The street superintendent shall then cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, state the fact of passage of the resolution, its date, and, briefly, the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for a period of ten days in one or more daily newspapers published and circulated in said city, and designated by said city council; or if there is no daily newspaper so published and circulated in said city, then by four successive insertions in a weekly or semi-weekly newspaper, so published, circulated, and designated.

§ 4. Any person interested objecting to said work or improvement, or to the extent of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the cost and expenses thereof, may make written objections to the same within ten days after the expiration of the time for the publication of said notice, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and at the next meeting of the city council after the expiration of said ten days lay said objections before said city council, which shall fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections, by depositing a notice thereof in the post-office of said city, postage prepaid, addressed to such objector.

§ 5. At the time specified or to which the hearing may be adjourned, the said city council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. If such objections are sustained, all proceedings shall be stopped, but proceedings may be again commenced at any time by giving notice of intention to do said work or make said improvement. If such objection is overruled by the city council, the proceedings shall continue the same as if such objection had not been made. At the expiration of the time prescribed during which objections to said work or improvement may be made, if no objections shall have been made, or if an objection shall have been made, and said council, after hearing, shall have overruled the same, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done, or improvements to be made, which is authorized by section one of this act.

§ 6. Having acquired jurisdiction as provided in the preceding section, the city council shall order said work to be done, and unless the proposed work is for closing up, and it appears that no assessment is necessary, shall appoint three commissioners to assess benefits and damages, and have general supervision of the proposed work or improvement until the completion thereof in compliance with this statute. For their services, they shall receive such compensation as the city council may determine from time to time; provided, that such compensation shall not exceed two hundred dollars per month each, nor continue more than six months, unless extended by order of the city council. Such compensation shall be added to and be chargeable as a part of the expenses of the work or improvement. Each of said commissioners shall file with the clerk of the city council an affidavit, and a bond to the state of California in the sum of five thousand dollars, to faithfully perform the duties of his office. The city council may at any time remove any or all of said commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause.

§ 7. Said commissioners shall have power to employ such assistance, legal or otherwise, as they may deem necessary and proper; also to rent an office, and provide such maps, diagrams, plans, books, stationery, fuel, lights, postage, expressage and incur such incidental expenses as they may deem necessary.

§ 8. All such charges and expenses shall be deemed as expenses of said work or improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereinafter. All payments, as well for the land and improvements taken or damaged, as for the charges and expenses, shall be paid by the city treasurer, upon warrants drawn upon said fund from time to time, signed by said commissioners, or a majority of them. All such warrants shall state whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is payable only out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor [be] a claim against the city.

§ 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land and the damage to improvements and property affected, and also the amount of the expenses incident to said work or improvement, and having determined the same shall proceed to assess the same upon the district of lands declared benefited, the exterior boundaries of which were fixed by the resolution of intention provided for by section two hereof. Such assessment shall be made upon the lands within said district in proportion to the benefit to be derived from said work or improvement, so far as the said commissioners can reasonably estimate the same, including in such estimate the property of any railroad company within said district, if such there be.

§ 10. Said commissioners having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof to the city council, and shall accompany their report with a plat of the assessment district showing the land taken or to be taken for the work or improvement, and the lands

assessed, showing the relative location of each district, block, lot or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn, and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

§ 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimants thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interest, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

§ 12. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any lot of land, or of any improvements thereon, or of any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or of the particulars of their interest, shall not affect the validity of the assessment or of the condemnation of the property to be taken.

§ 13. Said report and plat shall be filed in the clerk's office of the city council, and thereupon the clerk of said city council shall give notice of such filing by publication for at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily paper, by three successive insertions in a weekly or semiweekly newspaper so published and circulated. Said notice shall also require all persons interested to show cause, if any, why such report should not be confirmed, before the city council on or before a day fixed by the clerk thereof, and stated in said notice, which day shall not be less than thirty days from the first publication thereof.

§ 14. All objections shall be in writing, and filed with the clerk of the city council, who shall, at the next meeting after the day fixed in the notice to show cause, lay the said objections, if any, before the city council, which shall fix a time for hearing the same, of which the clerk shall notify the objectors in the same manner as objectors to the original resolution of intention; at the time set, or at such other time as the hearing may be adjourned to, the city council shall hear such objections and pass upon the same; and at such time, or, if there be no objections, at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had, as in the case of an original report.

§ 15. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment roll. Immediately upon receipt thereof by the street superintend-

ent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein.

§ 16. The superintendent of streets shall thereupon give notice by publication for ten days in one or more daily newspapers published and circulated in such city or city and county, or by two successive insertions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment roll, and that all sums levied and assessed in said assessment roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per centum upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid," and the date of payment, opposite the respective assessment so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment roll, and shall add five per centum to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received unless at the same time the five per centum added thereto, as aforesaid, together with the costs of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law, in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time, shall also then, so far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder, and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor.

The superintendent of streets shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating such fund by the name of the street, square, lane, alley, court, or place for the widening, opening, or other improvement of which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners, or a majority of them.

§ 17. When sufficient money is in the hands of the city treasurer, in the fund devoted to the proposed work or improvement, to pay for the land and improvements taken or damaged, and when in the discretion of the commissioners, or a majority of them, the time shall have come to make payments, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of any land or improvements thereon to whom damages shall have been awarded, that a warrant has been drawn for the payment of the same, and that he can receive such warrant at the office of such commissioners upon tendering a conveyance of any property to be taken; such notification, except in the case of unknown owners, to be made by depositing a notice, postage paid, in the post-office, addressed to his last known place of abode or residence. If at the expiration of thirty days after the deposit of such notice, he should not have applied for such warrant, and tendered a conveyance of the land to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor, or occupant, upon tendering a conveyance as aforesaid, unless judgment of condemnation shall be had, when the same shall be canceled.

§ 18. If any owner of land to be taken neglects or refuses to accept the warrant drawn in his favor, as aforesaid, or objects to the report as to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage and condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings herein provided for and the resolution and ordinance ordering said work to be done shall be conclusive evidence of such necessity. Such proceeding shall be brought in the name of the municipality, and have precedence so far as the business of the court will permit; and any judgment for damages therein rendered shall be payable out of such portion of the special fund as may remain in the treasury, so far as the same can be applied. At any time after trial and judgment entered, or preceding an appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the fund appropriated to the particular improvement to answer the judgment and all damages, and thereupon may authorize and order the municipality to enter upon the land and proceed with the proposed work and improvement. In case of a deficiency in said fund to pay the whole of such judgment and damages, the city council may, in their discretion, order the balance thereof to be paid out of the general fund of the treasury or to be distributed by the commissioners over the property assessed by a supplementary assessment; but in the last-named case, in order to avoid delay, the city council may advance such balance out of any appropriate fund in the treasury, and reimburse the same from the collections of the assessment. Pending the collection and payment of

the amount of the judgment and damages, the court may order such stay of proceedings as may be necessary.

§ 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

§ 20. If after the sale of the property for delinquent assessments there should be a deficiency, and there should be unreasonable delay in collecting the same, or if for the purpose of equalizing the assessments supplying a deficiency, or for any cause it appear desirable, the commissioners may so report to the city council, who may order them to make a supplementary assessment and report the same in manner and form as the original, and subject to the same procedure. If by reason of such supplementary assessment, or for any cause, there should be at any time a surplus, the city council may appropriate the same and declare a dividend pro rata to the parties paying the same, and they, upon demand, shall have the right to have the amount of such pro rata dividends refunded to them, or credited upon any subsequent assessment for taxes made against said parties in favor of said city.

§ 21. If any title attempted to be acquired by virtue of this act shall be found to be defective from any cause, the city council may again institute proceedings to acquire the cause as in this act provided, or otherwise, or may authorize the commissioners to purchase the same and include the cost thereof in a supplementary assessment as provided in the last section.

§ 22. If the city council deem it proper that the boundaries of the districts of lands to be affected and assessed to pay the damages, cost, and expenses of any work or improvement under this act, shall include the whole city, then the commissioners appointed shall proceed in a summary manner to purchase the lands to be taken or condemned from the owners and claimants thereof. If said commissioners and the owners and claimants cannot agree upon the price to be paid for said lands, they shall proceed to view and value the same, and shall thereupon make a summary report to the city council. Upon final confirmation of the report, the city council, if there be not sufficient money available in the city treasury, shall cause the cost and expenses of the contemplated public improvement to be assessed upon the whole of the taxable property of said city, and to be included in and form part of the next general assessment roll of said city, and with like effect in all respects as if the same formed a part of the city, state, and county taxes; and when the same shall have been collected the said city council shall cause the land required to be paid for or the value thereof tendered, and the said contemplated public improvement to be forthwith made and completed. All the provisions of the preceding sections not in conflict with this section shall be applicable thereto.

§ 23. 1. The words "work" and "improvement," as used in this act, shall include all work mentioned in section one of this act.

2. In case there is no daily or weekly or semiweekly newspapers printed and circulated in the city, then such notices as are herein required to be published in

a newspaper shall be posted and kept posted for the length of time required herein for the publication of the same in a weekly newspaper, in three of the most public places in such city. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper or of the poster of the notice.

3. The word "municipality" and the word "city" shall be understood and so construed as to include all corporations heretofore organized and now existing, or hereafter organized, for municipal purpose[s].

4. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets; and all the provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such persons so appointed.

5. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

6. The terms "clerk" and "city clerk," as used in this act, is [are] hereby declared to include any person or officer who shall be clerk of said city council.

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer who shall have charge and make payment of the city funds.

8. No publications or notice other than that provided for in this act shall be necessary to give validity to any proceedings had thereunder.

§ 24. The proceedings and any work or improvement, such as is provided for in this act, already commenced, and now progressing under any other act now in force, or by virtue of any ordinance passed by any city council or board of supervisors of any city, county, or city and county, by virtue of any other act now in force, may, from any stage of such proceedings already commenced and now progressing, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act with full force and effect in all respects, from the stage of such proceedings under such other acts or ordinances at and from which such resolution shall declare an election or intention to have said work or improvement cease under such other act or ordinance, and continue under this act; and from such election so made, all proceedings theretofore had under such other act or ordinance are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again proceedings had under such other act or ordinance. This section shall not apply to any work or improvement proceedings in which [proceedings] were commenced more than eighteen months prior to the passage of this act.

§ 25. The provisions of this act shall be liberally construed to promote the objects thereof. This act shall take effect and be in force from and after its passage.

§§ 1-5—Wulzen vs. Board Supervrs., 101 Cal. 15, 19-23, 40 Am. St. Rep. 17n, 35 Pac. Rep. 353. §§ 1-6—Brown vs. Board Supervrs., 124 Cal. 274, 277, 57 Pac. Rep. 82. §§ 1-10—Santa Cruz F. B. Assoc. vs. Grant, 104 Cal. 306, 307, 37 Pac. Rep. 1034; Cohen

vs. City Alameda, 124 Cal. 504, 505, 57 Pac. Rep. 377; McKeeby vs. Los Angeles, 125 Cal. 639, 640, 58 Pac. Rep. 263; Byrne vs. Drain, 127 Cal. 663, 665, 60 Pac. Rep. 433. §§ 2, 4—Dehail vs. Morford, 95 Cal. 457, 460, 30 Pac. Rep. 593. §§ 4, 5, 13, 18—Davies vs. Los Angeles, 86 Cal. 37, 44, 24 Pac. Rep. 771. §§ 5, 11—Girvin vs. Simon, 116 Cal. 604, 608, 48 Pac. Rep. 720; City of Los Angeles vs. Leavis, 119 Cal. 164, 165, 51 Pac. Rep. 34. § 6—Santa Ana vs. Harlan, 99 Cal. 538, 541, 34 Pac. Rep. 224. §§ 6, 7, 8, 10—Brooks vs. City San Luis Obispo, 109 Cal. 50, 51, 41 Pac. Rep. 791; Symons vs. San Francisco, 115

Cal. 555, 558, 42 Pac. Rep. 913, 47 Id. 453. §§ 9, 10—City San Luis Obispo vs. Brizzolara, 109 Cal. 434, 435, 34 Pac. Rep. 1083. § 11—Hadley vs. Dague, 130 Cal. 207-215, 62 Pac. Rep. 500; Alameda vs. Cohen, 133 Cal. 5, 6, 65 Pac. Rep. 127; Town of Mill Valley vs. House, 142 Cal. 698, 699-701, 76 Pac. Rep. 658. §§ 13-16—Gill vs. City of Oakland, 124 Cal. 335, 336, 57 Pac. Rep. 150. § 16—Clarke vs. Mead, 102 Cal. 516, 517, 36 Pac. Rep. 862. § 18—City of Los Angeles vs. Dehail, 97 Cal. 13, 14, 31 Pac. Rep. 626. § 24—San Francisco vs. Kiernan, 98 Cal. 614, 620, 33 Pac. Rep. 720.

STREET LAW—SALE AND REDEMPTION.

Fixing and regulating the manner of sale and redemption of real property for delinquent assessments to pay the damages, costs and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in any part, any street, square, lane, alley, court, or place within municipalities in this state.

(Stats. 1895, 204, ch. CLXXVII.)

§ 1. All sales, and redemptions after sale, of any real property upon which the assessment levied and assessed to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, constructing, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities in this state, shall remain unpaid and become delinquent under the provisions of any act or law regulating such matters, shall be made and had in the same time and manner as such sales and redemption were required by law to be made and had on the first day of January, anno Domini eighteen hundred and ninety-five.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage and approval.

STREET LAW—"ACT OF NINETEEN HUNDRED AND THREE."

To provide for the laying out, opening, extending, widening, or straightening, in whole or in part, of public streets, squares, lanes, alleys, courts, and places, within municipalities, for the condemnation of property necessary or convenient for such purposes, and for the establishment of assessment districts and the assessment of property therein to pay the expense of such improvement.

(Stats. 1903, 376, ch. CCLXVIII.)

§ 1. Whenever the public interest or convenience may require, the city council of any municipality shall have full power and authority to order the laying out, opening, extending, widening, or straightening, in whole or in part, of any public street, square, lane, alley, court, or place within such municipality, and to acquire, by condemnation, any and all property necessary or convenient for that purpose.

§ 2. Before ordering any improvement to be made, which is authorized by section one of this act, the city council shall pass an ordinance declaring its in-

tention to do so, describing the improvement, and the land necessary or convenient to be taken therefor, and specifying the boundaries of the district to be benefited by said improvement, and to be assessed to pay the expense thereof, and to be known as the assessment district.

§ 3. The street superintendent shall thereupon cause to be conspicuously posted along all streets and parts of streets within the assessment district described in said ordinance, at not more than three hundred feet in distance apart, notices (not less than three in all) of the passage of said ordinance. Said notices shall be headed "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said ordinance, and briefly describe the improvement proposed, and refer to said ordinance for further particulars. He shall also cause a notice similar in substance to be published for a period of five days, in a daily newspaper published and circulated in said municipality, and designated by said city council for that purpose, or if there is no such daily newspaper, then by four successive insertions in a weekly newspaper so published, circulated, and designated.

§ 4. Any person interested, objecting to said improvement, or to the extent of the assessment district described in said ordinance of intention, may file a written protest with the clerk of the city council, within thirty days after the first publication of the notice required by section three of this act. The clerk shall indorse on every such protest the date of its reception by him, and, at the next regular meeting of the city council after the expiration of the time for filing protests, shall present to said city council all protests so filed with him. If such protests are against the said improvement, and said city council finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, all further proceedings under said ordinance of intention shall be barred, and no new ordinance of intention for the same improvement shall be passed within six months after the presentation of such protests to the city council, unless the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district shall in the mean time petition therefor. If such protests are against the improvement, and the council finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, or if such protests are only against the extent of the assessment district, the council shall hear said protests at said meeting, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision shall be final and conclusive. If such protests are sustained, no further proceedings shall be had under said ordinance of intention, but a new ordinance of intention for the same improvement may be passed at any time. If such protests are denied, the proceedings shall continue as if such protests had not been made. At the expiration of the time within which protests may be filed, if none are filed, or if protests are filed, and after hearing are denied, as above provided, then upon such denial, the city council shall acquire jurisdiction to order the improvement described in the ordinance of intention.

§ 5. Having acquired jurisdiction, the city council shall, by ordinance, order said improvement to be made, and direct an action to be brought by the city

attorney, in the proper superior court, in the name of the municipality, for the condemnation of the property necessary or convenient to be taken therefor. Such ordinance need not describe the property to be taken, nor the assessment district, but may refer to the ordinance of intention for all particulars.

§ 6. Said action must be brought within sixty days after the passage of the ordinance ordering the improvement, but the council may, by ordinance, extend the time for the bringing of such action. Said action shall, in all respects, be subject to and governed by such rules of the Code of Civil Procedure now existing, or that may be hereafter adopted, as may be applicable thereto, except in the particulars otherwise provided for in this act.

§ 7. The complaint shall set forth, or state the effect of, the ordinance of intention, and the ordinance ordering the improvement, but need not set up any other proceedings had before the bringing of the action. Said ordinances shall be conclusive evidence, in such action, of the public necessity of the proposed improvement, and also that the same is located in the manner which will be most compatible with the greatest public good and the least private injury.

§ 8. If a jury is waived by the defendants, or any of them, the court must appoint three disinterested persons referees, to ascertain the compensation to be paid to such defendants waiving a jury. Such referees must be residents of the municipality where such improvement is to be made, and over the age of twenty-one years, and must take and file with the court an oath to discharge their duties faithfully and impartially. If any of such referees fails to qualify, or resigns, or is, or becomes, unable to act, the vacancy so created shall be filled by the court.

§ 9. The referees shall at once proceed to view the lands sought to be condemned, and ascertain the compensation proper to be paid to such of the parties interested in each parcel thereof as have waived a jury. They shall have power to examine witnesses under oath, to be administered by any of them, and may have subpoenas issued by the clerk of the court requiring the attendance of witnesses, or the production of evidence before them. They shall, as soon as practicable, make and file with the court a written report of their findings, and also of the number of days spent by them in the matter of such reference, and of their necessary expenses. Any two of such referees who agree thereto, may make such report.

§ 10. The referees or jury, as the case may be, shall find separately:

First—The value of each parcel of property sought to be condemned, and all improvements thereon pertaining to the realty, and of each separate estate or interest therein;

Second—If any parcel of property sought to be condemned is only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned, and to each separate estate or interest therein, by reason of its severance from the portion sought to be condemned, and the construction of the improvement in the manner proposed by the plaintiff. Such damages must be fixed irrespective of any benefit from such improvement.

§ 11. Upon the filing of such report, the court must, on motion of any party, appoint a day for hearing the same. Notice of the time and place of said hearing must be served on all the parties who have answered at least five days before the time appointed. At said hearing, any party to the action may appear and file his

exceptions, in writing, to said report, and contest the same. After hearing the report, and any exceptions thereto, the court may confirm the report, or may modify it and confirm it as modified, or may set it aside and order a new report, from the same referees, or from new referees to be appointed. If new referees are appointed, the same proceedings shall be had as upon the first reference.

§ 12. Upon confirmation of the report of the referees, and receipt of the verdict of the jury, the court shall make and enter an interlocutory judgment in accordance with such report and verdict, adjudging that upon payment to the respective parties, or into court for their benefit, of the several amounts found due them, as compensation, and of the costs allowed to them, the property involved in the action shall be condemned to the use of the plaintiff, and dedicated to the use specified in the complaint. The court shall allow to the referees, as costs to be paid by the plaintiff, a reasonable compensation for their services, not exceeding five dollars each, for each day necessarily spent in the matter of the reference, and their necessary expenses.

§ 13. An appeal may be taken from such interlocutory judgment within thirty days from the entry thereof, and from any order granting or denying a new trial within ten days after the entry thereof.

§ 14. The city council may, at any time prior to the payment of the compensation awarded the defendants, abandon the proceedings, by ordinance, and cause the said action to be dismissed, without prejudice; and if any of the assessments levied to pay the expense of the improvement, as hereinafter provided, shall have been actually paid in money at the time of such abandonment, the same shall be refunded to the persons by whom they were paid.

§ 15. Upon the entry of the interlocutory judgment, the city council shall order the city engineer, or if there be no city engineer, any civil engineer whom it may employ for that purpose, to make and deliver to the street superintendent, a diagram of the improvement and of the property within the assessment district described in the ordinance of intention. Said diagram shall show the land to be taken for the proposed improvement, and also each separate lot, piece, or parcel of land within the assessment district, and the dimensions of each such lot, piece, or parcel of land, and the relative location of the same to the proposed improvement.

§ 16. The street superintendent, upon receiving the said diagram, shall proceed to assess the total expense of the proposed improvement upon and against the lands, including the property of any railroad, within said assessment district, except the land to be taken for such improvement, in proportion to the benefits to be received from said improvement. The total expense of the improvement so to be assessed shall include the amounts awarded to the defendants by the interlocutory judgment in the action for condemnation, the compensation and expenses of the referees, as allowed by the court, and all other costs of the plaintiff in such action, the expenses of making the assessment, and all expenses necessarily incurred by said city, in connection with the proposed improvement, for maps, diagrams, plans, surveys, searches and certificates of title to the property to be taken, and all other matters incident thereto.

§ 17. The street superintendent shall make the said assessment in writing. Such assessment shall describe each lot, piece, or parcel of land assessed for said

improvement, and shall designate each such lot, piece, or parcel of land with an appropriate number. The street superintendent shall also designate each such lot, piece, or parcel of land on said diagram, with the number corresponding with the number thereof in said assessment, and said diagram shall thereupon be attached to and become and be deemed to be a part of said assessment. Such assessment shall show the total sum to be raised thereby, as hereinbefore provided, and also the items of such total sum, and opposite each lot, piece or parcel of land assessed, the amount assessed thereon, and the name of the owner thereof, if known to the street superintendent; or if the owner's name is unknown, the word "Unknown" shall be written instead of such name. Any error or mistake in the designation of the owner of any lot, piece, or parcel of land, or in the particulars of his interest therein, shall not affect the validity of the assessment.

§ 18. As soon as said assessment is completed the street superintendent shall file the same with the diagram attached thereto and made a part thereof as aforesaid, with the clerk of the council, who shall give notice of such filing by publication for at least ten days in a daily newspaper published and circulated in the city, or if there be no such daily newspaper, by three successive insertions in a weekly newspaper so published and circulated. Said notice shall require all persons interested to file with said clerk their objections, if any they have, to the confirmation of said assessment, within thirty days after the date of the first publication of such notice, which date shall be stated in said notice.

§ 19. All objections shall be in writing and shall be filed with said clerk within the time prescribed in the notice required by section eighteen hereof. The clerk shall, at the next regular meeting of the city council after the expiration of the time for filing objections, lay said assessment and all objections so filed with him, before the council; and said council shall hear all such objections at said meeting, or at any other time to which the hearing thereof may be adjourned, and pass upon such assessment, and may confirm, modify, or correct said assessment, or may order a new assessment, upon which like proceedings shall be had, as in the case of an original assessment; or if there be no objections, the council shall, at any regular meeting after the expiration of the time for filing objections, confirm such assessment, and the action of the council upon such objections and assessment shall be final and conclusive in the premises.

§ 20. The clerk of the council shall thereupon deliver to the street superintendent the assessment as confirmed by the city council, with his certificate of such confirmation, and of the date thereof. The street superintendent shall thereupon record such assessment and diagram in his office, in a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording, and such record shall be the assessment roll. From the date of such recording all persons shall be deemed to have notice of the contents of such assessment roll. Immediately upon such recording, the several assessments contained in such assessment roll shall become due and payable, and each of such assessments shall be a lien upon the property against which it is made.

§ 21. The owner of any property assessed, who is entitled to compensation under the award made by the interlocutory judgment, may, at any time after such assessment becomes payable, and before the sale of said property for non-payment thereof, as hereinafter provided, demand of the street superintendent

that such assessment, or any number of such assessments, be offset against the amount to which he is entitled under said judgment. Thereupon, if said amount is equal to or greater than such assessments, including any penalties and costs due thereon, the assessment shall be marked "Paid by offset"; and if the said amount is less than the assessment, and any penalties and costs due thereon, the person demanding such offset shall at the same time pay the difference to the street superintendent in money, and the assessments shall, on such payment, be marked paid, the entry showing what part thereof is paid by offset and what part in money. In either case, as a condition of the offset, such person must execute to the city and deliver to the street superintendent duplicate receipts for such part of the amount due him under said interlocutory judgment as is offset against such assessments, penalties, and costs. One of said duplicate receipts shall be filed by the street superintendent in his office, the other shall be filed with the clerk of the superior court, and on such filing, the city shall be entitled to a satisfaction pro tanto of said interlocutory judgment.

§ 22. The street superintendent shall, upon the recording of said assessment, give notice, by publication for ten days in a daily newspaper, published and circulated in such municipality, or by three successive insertions in a weekly newspaper, so published and circulated, that said assessment has been recorded in his office, and that all sums assessed therein are due and payable immediately, and that the payment of the said sums is to be made to him within thirty days after the date of the first publication, which date shall be stated in the notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will become delinquent, and that thereupon five per centum upon the amount of each such assessment will be added thereto. When payment of any assessment is made, the street superintendent shall mark opposite such assessment, the word, "Paid," the date of payment, and the name of the person by or for whom the same is paid, and shall, if so requested, give receipt therefor. On the expiration of said period of thirty days, all assessments then unpaid shall become delinquent, and the street superintendent shall certify such fact at the foot of said assessment roll, and mark each such assessment "Delinquent," and add five per centum to the amount of each assessment delinquent.

§ 23. The street superintendent shall, within ten days from the date of such delinquency, begin the publication of a list of the delinquent assessments, which list must contain a description of each parcel of property delinquent, and opposite or against each description, the name of the owner as stated in the assessment roll, and the amount of the assessment, penalty, and costs due, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land, separately assessed. The street superintendent shall append to and publish with said delinquent list a notice that unless each assessment delinquent, together with the penalty and costs thereon, is paid, the property upon which such assessment is a lien, will be sold at public auction at a time and place to be specified in the notice. The publication must be made for a period of ten days, in some daily newspaper published and circulated in the municipality, or for three weeks in a weekly newspaper so published and circulated. The time of sale must not be less than five days, nor more than ten days, after the expiration of the period of publication of said list,

and the place of sale must be in, or in front of, the office of the street superintendent.

§ 24. At any time after such delinquency, and prior to the sale of any piece of property assessed and delinquent, any person may pay the assessment on such piece of property, together with the penalty, and costs then due, including the cost of advertising, if such payment is made after the first publication of the list of delinquent assessments. The street superintendent shall thereupon mark such assessment "Paid," as hereinbefore provided.

§ 25. On the day fixed for the sale, the street superintendent must, at the hour of ten o'clock a. m. commence the sale of the property advertised, commencing at the head of the list, and continuing in the numerical order of lots or parcels of land until all are sold; provided, that he may postpone or continue the sale from day to day until all the property is sold. Each lot, piece or parcel of land separately assessed must be offered for sale separately, and the person who will take the least quantity of land, and then and there pay the amount of the assessment, penalty, and costs due, including fifty cents to the street superintendent for a certificate of sale, shall become the purchaser. In case there is no purchaser, for any lot, piece or parcel of land so offered for sale the same shall be struck off to the municipality, as purchaser, and the city council shall appropriate, out of the general fund of the treasury, the amount required for such purchase, and shall order the city treasurer to place the same in the special fund for such improvement. No charge shall be made for the certificate of sale when the municipality is the purchaser.

§ 26. After making the sale, the street superintendent must execute, in duplicate, a certificate of sale setting forth a description of the property sold, the name of the owner thereof, as given on the assessment roll, that said property was sold for a delinquent assessment, (specifying the improvement for which the same was made), the amount for which such property was sold, the date of sale, the name of the purchaser, and the time when the purchaser will be entitled to a deed. The street superintendent must file one copy of such certificate in his office, and deliver the other to the purchaser, or if the municipality is the purchaser, to the clerk of the council, who shall file the same in his office. On the filing of the copy of such certificate in the office of the street superintendent, the lien of the assessment shall vest in the purchaser, and is only divested by a redemption of the property, as in this act provided. The street superintendent shall also enter on the assessment roll, opposite the description of each piece of property offered for sale, a description of the part thereof sold, the amount for which the same was sold, the date of the sale, and the name of the purchaser.

§ 27. A redemption of any parcel of property sold for delinquent assessment may be made by any party in interest, at any time prior to the execution and delivery of a deed therefor, by paying to the street superintendent the amount for which the property was sold, and in addition thereto ten per centum thereon if paid within three months from the date of sale; twenty per centum if paid within six months; thirty per centum if paid within nine months; forty per centum if paid within twelve months, or fifty per centum if paid at any time after twelve months. When redemption is made, the street superintendent shall note that fact on the duplicate cer-

tificate of sale on file in his office, and deposit the amount paid with the city treasurer, who shall credit the purchaser named in the certificate of sale with the said amount, and pay the same to such purchaser, or his assignee, upon the surrender of the certificate of sale, and upon satisfactory proof of assignment thereof, if any. When the municipality is the purchaser, the treasurer shall notify the clerk of the council of the redemption, and such clerk shall thereupon cancel the certificate of sale on file in his office.

§ 28. At any time after the expiration of twelve months from the date of sale, the street superintendent must execute to the purchaser, or his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof, and the fact that no person has redeemed the property. The street superintendent shall receive from the applicant for a deed, one dollar for making such deed, unless the municipality is the purchaser, in which case no charge shall be made therefor. The purchaser or his assignee must, at least thirty days before he applies for a deed, serve upon the owner of the property, and upon the occupant of such property, if the same is occupied, a written notice, setting forth a description of the property that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the street superintendent for a deed. If the said owner cannot be found, after due diligence, said notice must be posted in a conspicuous place upon said property, at least thirty days before the time stated therein, at which the application for a deed will be made. The person applying for a deed must file with the street superintendent an affidavit or affidavits showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner; which affidavit or affidavits must be filed by the street superintendent in his office. If redemption of the property is made after such affidavits are filed, and more than eleven months from the date of sale, the person making such redemption must pay, in addition to the other amounts required, three dollars for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption. No deed for any property sold for delinquent assessment shall be made until the purchaser or his assignee has complied with all the provisions of this section, and filed the proper affidavits with the street superintendent.

§ 29. The deed of the street superintendent shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

§ 30. The street superintendent shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any assessments made under the provisions of this act. The city treasurer shall, on receipt thereof, place the same in a special fund, designating such fund by the name of the improvement for which the assessment was made.

§ 31. As soon as there is sufficient money in the hands of the city treasurer, in the special fund devoted to the proposed improvement, to pay the amounts awarded to the defendants by the interlocutory judgment in the action of condemnation, or such parts thereof as have not been paid by offset against assessments, as hereinbefore provided, the said amounts shall be paid to the parties entitled thereto, or into court for their benefit. On satisfactory proof being made to the court of payment of the amounts awarded by the interlocutory judgment to the respective parties entitled thereto, or into court for their benefit, it shall direct the interlocutory judgment to be satisfied, and shall make and enter a final judgment, condemning the lands described in the complaint to the use of the plaintiff for the purposes specified in such complaint.

§ 32. In case of a deficiency in the fund for such improvement, the city council, in its discretion, may provide for such deficiency by an appropriation out of the general fund of the treasury, or by ordering a supplementary assessment to be made by the street superintendent upon the property in said assessment district in the same manner and form, and subject to the same procedure as the original assessment, and in the last named case, in order to avoid delay, the city council may advance such deficiency out of the city treasury and reimburse the treasury from the collections under such supplementary assessment. In case of a surplus in the fund for such improvement, the city council may order such surplus refunded pro rata to the parties who paid the assessments.

§ 33. The following words and phrases shall, where used in this act, have the following meanings:

(1) The term "improvement," includes all the improvements mentioned in section one of this act.

(2) The terms, "municipality" and "city," include all incorporated cities, cities and counties, and other corporations organized for municipal purposes.

(3) The terms, "city council" and "council," include any body or board in which by law is vested the legislative power of any municipality.

(4) The terms, "clerk" and "city clerk," include any person or officer who acts as clerk of said city council.

(5) The terms, "treasurer" and "city treasurer," include any person or officer who has charge and makes payment of the city funds.

(6) The term, "street superintendent," includes any person or officer whose duty it is by law to have the care or charge of streets or the improvement thereof, in any city. In any city where there is no street superintendent, the city council is hereby authorized to appoint a suitable person to discharge the duties of street superintendent, as provided in this act, and all the provisions hereof applicable to the street superintendent shall apply to the person so appointed.

§ 34. In case there is no daily or weekly newspaper published and circulated in the city, then such notices and delinquent lists as are herein required to be published in a newspaper shall be posted in three of the most public places in such city, for the length of time required herein for the publication of the same in a weekly newspaper. No publication or notice other than that provided in this act shall be necessary to give validity to any proceedings had thereunder.

§ 35. Proof of publication of any notice required by this act shall be made by affidavit, as provided in the Code of Civil Procedure, and proof of the posting of any such notice shall be made by the affidavit of the person posting the same, setting forth the facts regarding such posting. It shall be the duty of any officer who is required by this act to have any notice published or posted, to obtain and file in his office the affidavit or affidavits in proof thereof; provided that his failure so to do shall not affect the validity of any proceedings under this act. Any such affidavit so filed shall be prima facie evidence of the facts therein stated regarding such publication or posting.

§ 36. This act shall in nowise affect an act entitled "An act to provide for laying out, opening, extending, widening, straightening, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose," approved March sixth, eighteen hundred and eighty-nine, or amendments thereto, or any other acts on the same subject, or apply to proceedings had thereunder, but it is intended to and does provide an alternate system of proceedings for making the improvements provided for by this act; and it shall be within the discretion of the city council of any municipality to proceed in making such improvements, either under the provisions of this act, or under the provisions of such other acts; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments thereof as may be hereafter adopted, and no other, shall apply to all such proceedings, and any provisions contained in said acts or any acts in conflict with the provisions hereof shall be void and of no effect as to the proceedings commenced under the provisions of this act. The election of the city council to proceed under the provisions of this act shall be expressed in its ordinance of intention to order the work done.

§ 37. The provisions of this act shall be liberally construed to promote the objects thereof. This act may be designated and referred to as the "Street Opening Act of Nineteen Hundred and Three," and shall take effect and be in force upon its passage and approval.

Town of Mill Valley vs. House, 142 Cal. 698, 700, 76 Pac. Rep. 653.

STREET RAILROADS.

See tit. **Franchises.**

STREETS.

See tit. **Trees and Hedges.**

SUISUN CITY.

See tit. **Municipal Corporations.**

SUMMONS AND SUBPŒNAS IN CIVIL ACTIONS—COSTS FOR WHEN NOT SERVED BY SHERIFF.

See tit. **Costs in Civil Actions.**

SUNDAY.

See tit. **Day of Rest.**

SUPERIOR COURTS—SUCCESSORS OF FORMER COURTS.

See tits. Courts; Judges.

SUPERVISORS—COUNTY—AS TO CERTAIN DUTIES.

See tits. Balloting Machines; County Government; Ferries; Franchises; Fresno County, Tulare and Kern; Holidays; License Tax; Nuisances; Water Commissioners.

SUPREME COURT—DEPUTY REPORTER.

To provide for the appointment of a deputy supreme court reporter, and to regulate his compensation.

(Stats. 1881, 9, ch. XIII; repealed 1905, 210, ch. CCXXIV.)

§ 1. An act entitled “An act to provide for the appointment of a deputy supreme court reporter, and to regulate his compensation,” approved February twenty-sixth, eighteen hundred and eighty-one, is hereby repealed.

§ 2. This act shall take effect and be in force from and after the first day of July, nineteen hundred and five.

As to the statute here repealed, see *Baggett vs. Dunn*, 69 Cal. 75, 10 Pac. Rep. 125.

SUPREME COURT—LIBRARIAN.

To authorize the justices of the supreme court to appoint a librarian for said court, and fixing a salary.

(Stats. 1893, 132, ch. CXV.)

§ 1. The justices of the supreme court are hereby authorized to appoint a librarian for the supreme court library, who, under their direction, shall conduct its affairs and be responsible for its care.

§ 2. The annual salary of said librarian shall be twelve hundred dollars, payable monthly, in the same manner as the salaries of other state officers.

§ 3. This act shall take effect immediately.

§ 4. All acts and parts of acts in conflict herewith are hereby repealed.

SURETY COMPANIES.

See tits. Bonds—Required by Law; Official Bonds.

SURGERY.

See tit. Medicine, Practice of.

SURVEYORS—LAND, LICENSE FOR.

See tit. Land Surveyors.

SUSCOL RANCHO.

To quiet title to certain lands in Napa and Solano counties.

(Stats. 1873-4, 329, ch. CCXXVII.)

§ 1. In all cases in which purchases have been made and patents issued by the United States for lands embraced within any sixteenth or thirty-sixth section, on what is known as the Suscol Rancho, in the counties of Napa and

Solano, such patents shall be deemed and held to convey the legal title to the land so patented, notwithstanding any adverse claim of this state thereto; and the state of California hereby relinquishes to the purchasers named in such patents, or their heirs or assigns, all its right, title, and interest in and to the lands in such patents described; provided, that this section shall only apply to and affect those lands on said Suscol Rancho for which the state has heretofore received, or may hereafter receive, other lands in lieu or indemnity for the supposed loss.

§ 2. This act shall not affect or impair any vested right acquired by any one to whom a certificate of purchase or patent has been issued by the proper officers of this state, in pursuance of any of its laws.

§ 3. This act shall take effect and be in force from and after its passage.

SUTTER COUNTY.

See tits. **Levee Districts; Swamp-Land Districts.**

SUTTER COUNTY—RECORDS.

Concerning the county records of the county of Sutter.

(Stats. 1858, 205, ch. CCXLIV.)

§ 1. The county recorder of Sutter County is hereby authorized and required, as soon as the same can be conveniently done, to transcribe in such manner, and into such books as are prescribed by section twelve of an act entitled "An act concerning county recorders," passed March twenty-sixth, eighteen hundred and fifty-one, the following books of record in his office, namely: the book known as "Book A;" also, the book known as "Book C." He shall also make indices to the same, as required by section fourteen of the act concerning county recorders, passed March twenty-sixth, one thousand eight hundred and fifty-one.

§ 2. Copies of any of the records transcribed as provided in this act, certified to be a full, true, and correct copy, under the hand and seal of the recorder, shall be legal evidence, and be received in all the courts of this state, and shall have the same force and effect as the original record.

§ 3. For services under this act, the recorder shall receive pay out of the county treasury at the rate of twenty cents per folio of one hundred words, and he shall be allowed no further compensation whatever for his services under this act.

§ 4. The original records shall be carefully preserved in the office of said recorder.

SUTTER'S FORT—GUARDIAN.

For the appointment of a guardian for Sutter's Fort property, prescribing his duties, and appropriating money therefor.

(Stats. 1895, 56, ch. LIX; amended 1905, 171, ch. CLXXVII.)

§ 1. The board of Sutter's Fort trustees shall, within thirty days after the passage of this act, appoint a suitable person who shall act as guardian of said Sutter's Fort property.

§ 2. The duties of said guardian shall be to take charge of said property and protect the same from injury and vandalism, and to perform such other service as said board of trustees shall direct. He shall hold office at the pleasure of the appointing power.

§ 3. The guardian shall receive for his services sixty dollars per month, payable from the state treasury, in the same manner as other state officers are paid. [Amendment, Stats. 1905, 171.]

§ 4. The sum of one hundred and seventy-five dollars is hereby appropriated from moneys in the state treasury not otherwise appropriated, for the payment of said salary for the forty-sixth fiscal year.

§ 5. This act shall take effect from and after its passage.

See tit. **Historic Property.**

SUTTER'S FORT—TRUSTEES.

To provide for the appointment of a board of Sutter's Fort trustees, and for the acquisition of the Sutter's Fort property, and providing for an appropriation for the preservation, protection, and improvement of said property.

(Stats. 1891, 25, ch. XXXIX.)

§ 1. The governor shall appoint five trustees, to be known as the board of Sutter's Fort trustees, at least three of whom shall be residents of Sacramento County; and he shall designate, at the time of such appointment, their respective terms of office, in accordance with the following classification, viz.: three of whom shall serve for two years, and two of said trustees shall serve for four years, from the time of their appointment. Their successors shall be appointed by the governor, and shall hold their offices for the term of four years, and until their successors are appointed and qualified. The said trustees shall qualify by taking the usual oath of office.

§ 2. The said board of Sutter's Fort trustees are hereby authorized to receive and accept from the Sutter's Fort committee of the grand parlor of the Native Sons of the Golden West, a corporation, without cost to the state, the possession of and the title to the site and grounds known as the Sutter's Fort property, and which is particularly described as those two certain blocks of land bounded by K and L, Twenty-sixth and Twenty-eighth streets, in the city of Sacramento, county of Sacramento, state of California.

§ 3. The said board of Sutter's Fort trustees shall provide for the preservation, protection, and improvement of the said Sutter's Fort property, in such way and manner as in their judgment may seem best and proper. Said board of trustees shall immediately, upon their appointment, organize by the election of a president, a secretary, and a treasurer from their number, and which officers shall serve without compensation; and the said president and secretary are hereby authorized, when empowered by said board, to do and perform all things pertaining to the duties of said board.

§ 4. The sum of twenty thousand (\$20,000) dollars, one half to be expended in the forty-third fiscal year and one half in the forty-fourth fiscal year, is hereby appropriated out of the general fund of the state treasury, for the

purpose of carrying out the provisions of section three of this act. The controller is hereby authorized to draw his warrant in favor of said board for the amount herein made payable, and the treasurer is directed to pay the same.

§ 5. This act shall take effect immediately.

See next preceding act. See also tit. *Historic Property*.

SWAMP-LAND FUND.

See tit. *Land Drained by Recession, Etc.*

SWINE—DISEASED.

See tit. *Quarantine*.

SYRUP—ADULTERATION.

Stats. 1877-8, 695, ch. CCCXLIX.

It is believed that this statute is repealed by § 382, Penal Code, as amended 1903, 351.

See *Dillon vs. Bicknell*, 116 Cal. 111, 47 Pac. Rep. 937, and cases there cited at p. 114.

TAHOE—LAKE.

See tits. *Lake Bigler; Lake Tahoe; Roads and Highways*.

TAXATION—COLLATERAL INHERITANCE.

Authorizing the bringing of actions on behalf of the state for the purpose of enforcing the lien or liens of taxes under an act entitled "An act to establish a tax on collateral inheritances, bequests, and devises, to provide for its collection, and to direct the disposition of the proceeds," approved March twenty-third, eighteen hundred and ninety-three, and the several acts amendatory thereof; and to authorize the bringing and prosecution of actions against the state, for the purpose of quieting title against claims of liens made by or upon behalf of the state under the said act and the acts amendatory thereof, and to regulate the procedure in such actions.

(Stats. 1905, 374, ch. CCCXXV.)

§ 1. In all cases where any tax has become or shall hereafter become a lien upon any property under or by virtue of any of the provisions of an act entitled "An act to establish a tax on collateral inheritances, bequests and devises, to provide for its collection and to direct the disposition of the proceeds," approved March twenty-third, eighteen hundred and ninety-three, and the several acts amendatory thereof, the district attorney of the county in which the estate of the decedent mentioned in said act and the acts amendatory thereof is being administered or has been administered in probate proceedings, may, whenever any property of said estate has been distributed without the payment to the state of all or any part of the taxes payable on account thereof under said act and the acts amendatory thereof, bring and prosecute an action or actions in the name of the state as plaintiff, for the purpose of enforcing such lien or liens against all or any of the property subject thereto. In any such action the owner of any property or of any interest in property against which the lien of any such tax is sought to be enforced, and any predecessor in interest of any such owner whose title or interest was deraigned through

any such decedent by will or succession or by decree of distribution of the estate of such decedent, and any lienor or encumbrancer subsequent to the lien of such tax may be made a party defendant. The enumeration in this section of the persons who may be made defendants shall not be deemed to be exclusive, but the joinder or non-joinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases.

§ 2. Actions may be brought against the state for the purpose of quieting the title to any property, against the lien or claim of lien of any tax or taxes under said act of March twenty-third, eighteen hundred and ninety-three, and the several acts amendatory thereof, or for the purpose of having it determined that any property is not subject to any lien for taxes under said act and the acts amendatory thereof. In any such action, the plaintiffs may be any administrator or executor of the estate or will of any decedent who has died since the said act of March twenty-third, eighteen hundred and ninety-three, went into effect, or who may hereafter die, whether the said estate shall have been fully administered and the estate settled and closed or not, and any heir, legatee or devisee of any such decedent, or trustee of the estate or of any part of the estate of such decedent, or distributee of the estate or of any part of the estate of any such decedent, and any assignee, grantee or successor in interest of any of such persons, and all or any other persons who might be made parties defendant in any action brought under the provisions of section one of this act, and notwithstanding that all or any of the persons enumerated in this section shall or may have assigned, granted, conveyed or otherwise parted with all or any interest in or title to the property, or any thereof, involved in any such claim of lien before the commencement of such action. All or any of the persons in this action enumerated may be joined or united as parties plaintiff. The enumeration in this section of the persons who may be made parties shall not be deemed to be exclusive, but the joinder or non-joinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases. In all cases any person who might properly be a party plaintiff in any such action who refuses to join as plaintiff may be made a defendant.

§ 3. All actions under sections one and two of this act shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned in said sections one and two.

§ 4. Service of summons in the actions mentioned in section two hereof shall be made on the secretary of state and on the district attorney of the county in which the estate of the decedent mentioned in said section is being administered, or has been administered, in probate proceedings, and it shall be the duty of said district attorney to defend all such actions.

§ 5. The procedure and practice in all actions brought under this act, except as otherwise provided in this act, shall be governed by the provisions of the

Code of Civil Procedure in relation to civil actions, so far as the same shall or may be applicable, including all provisions relating to motions for new trials and appeals.

§ 6. The remedies provided in this act shall be in addition to and not exclusive of any remedies provided in the said act of March twenty-third, eighteen hundred and ninety-three, and the several acts amendatory thereof.

See tit. **Collateral Inheritance Tax**, ante.

TAXATION—COMPLAINT IN SUITS.

Prescribing the form of complaint in actions to recover delinquent taxes, and to authorize the bringing of suits therefor.

(Stats. 1880, 136, ch. CXXIII.)

§ 1. In any action that may be hereafter commenced in any county, or city and county, in this state, for the collection of delinquent taxes for any fiscal year, the complaint may be in the following form, and shall be legally sufficient, and on the trial thereof the duplicate assessment roll for any said fiscal year, of said county, or city or county, or a copy of any entry therein duly certified, showing unpaid taxes against the defendant, or in cases where the defendant is sued in a representative capacity against any person or estate he represents, shall be prima facie evidence of the plaintiff's right to recover:

(Title of court.) (Name of plaintiff) vs. (name of defendant.) Plaintiff avers that defendant is indebted to plaintiff in the sum of \$—— (naming the amount for county, or city and county), [for] taxes, with five per centum penalty added thereto for the non-payment thereof, and interest thereon at the rate of two per centum per month from the (date), and fifty cents costs of advertising. Plaintiff further avers that defendant is indebted to plaintiff in the further sum of \$—— (naming amount), for state taxes, with five per centum penalty added thereto for the non-payment thereof, and interest thereon at the rate of two per centum per month from (date), and fifty cents costs of advertising, which said taxes were duly assessed and levied upon (the real or personal) property of said defendant, to wit: (describing property as assessed), for the fiscal year (naming the year). Wherefore, plaintiff prays judgment against said defendant, for said several sums, with interest and penalty as aforesaid, and costs of suit.

(Signature of attorney.)

And in any case where the defendant is sued in a representative capacity, such other further or additional allegations as may be necessary to charge him in such capacity; and it is further provided, that any county, or city and county, where such taxes are delinquent, may sue in its own name for the recovery of delinquent taxes, whether the same be for county, or city and county, and state purposes, or taxes, or either of them.

§ 2. This act shall take effect and be in force from and after its passage.

It is held in *San Diego vs. Southern Pac. R. Co.*, 108 Cal. 46, 40 Pac. Rep. 1052, that the foregoing act is repealed by § 3670, Pol. Code, as amended in 1883, so far as relates to actions against railroads by counties or cities and counties.

In *San Bernardino vs. Southern Pac. R. Co.*, 137 Cal. 659, 660, 661, 70 Pac. Rep. 782, it is said that the act is wholly inconsistent with the Political Code as to collection of taxes upon railroad property.

The form prescribed for the complaint

may be sufficient in other actions, where a municipality is authorized to bring actions. But see also *Los Angeles County vs. Bal-lerino*, 99 Cal. 593, 595, 32 Pac. Rep. 581,

34 Id. 329; (statute of limitations) *Clark vs. City of San Diego*, 144 Cal. 361, 77 Pac. Rep. 973; and *Henry vs. Garden City Bank & T. Co.*, 145 Cal. 54, 60, 78 Pac. Rep. 228.

TAXATION—FEES FOR COLLECTING.

To abolish commissions or fees paid by the state for the assessment, equaliza-tion, auditing, and collection of ad valorem taxes.

(Stats. 1893, 5, ch. VIII.)

§ 1. All commissions or fees paid by the state to the officers of any county, or city and county, for services rendered in the assessment, equalization, audit-ing, and collection of ad valorem taxes, are hereby abolished; provided, that this shall not affect the commissions paid to the assessor of the several counties for services rendered in the collection of personal property taxes, as provided by chapter eight of the Political Code, or the mileage allowed to the treasurer of the several counties, or cities and counties, in making settlements with the state, as provided by section three thousand eight hundred and seventy-six of the Political Code.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect from and after the first Monday in May, eighteen hundred and ninety-three.

In *County Yolo vs. Colgan*, 132 Cal. 265, 267, 84 Am. St. Rep. 41, 64 Pac. Rep. 403, the above enactment was held valid and in

force (decision March 19, 1901). In the mean time the legislature passed the next four following statutes.

TAXATION—FEES FOR COLLECTING.

Authorizing the payment of compensation or commission to persons employed by the state controller and attorney-general, or by boards of supervisors of the different counties, to collect delinquent state and county taxes, and legalizing all payments made for that purpose.

(Stats. 1895, 94, ch. CV.)

§ 1. That all sums heretofore paid by the state to any person for compensa-tion or commission to persons for collecting delinquent state and county taxes in pursuance of an agreement by such persons with the state controller and attorney-general for such collections, and all sums heretofore paid by any board of supervisors out of the county treasury as compensation or commissions for collecting such delinquent taxes in pursuance of an agreement by such per-sons with such boards of supervisors, are hereby approved and legalized.

§ 2. This act shall take effect and be in force from and after its passage.

TAXATION—FEES FOR COLLECTING.

To prevent the maintenance against the state or any officer thereof by any county or county officer, of any action or proceeding for the collection or recovery of any money alleged to be due such county or any officer thereof for services rendered in the assessment, equalization, auditing, and collection of ad valorem taxes.

(Stats. 1899, 9, ch. XI.)

§ 1. No action or proceeding shall hereafter be maintained by any county or county officer against the state or any state officer for the collection or recovery of any money alleged to be due such county or any officer thereof for services rendered in the assessment, equalization, auditing, and collection of ad valorem taxes, and all such actions and proceedings heretofore commenced and now pending, and all such actions or proceedings that may hereafter be instituted, shall be dismissed by the court in which the same may be pending upon its own motion.

§ 2. Nothing in this act shall be held to affect the commissions paid to the assessor of the several counties for services rendered in the collection of personal property taxes, or the mileage allowed to the treasurer of the several counties or cities and counties in making settlements with the state.

§ 3. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage.

See last two preceding statutes and note.

TAXATION—FEES FOR COLLECTING.

Prohibiting the payment of money by the state to counties and cities and counties for the collection of taxes.

(Stats. 1899, 56, ch. XLVII.)

§ 1. No money shall be paid by the state to any county or city and county of the state on account of any claim based upon the collection of taxes heretofore made by any county or city and county of the state or the officers thereof.

§ 2. This act shall take effect immediately.

TAXATION—FEES FOR COLLECTING.

To abolish commissions or fees paid by the state for the assessment, equalization, auditing, and collection of ad valorem taxes.

(Stats. 1899, 102, ch. LXXXVI.)

§ 1. All commissions or fees paid by the state to the officers of any county, or city and county, for services rendered in the assessment, equalization, auditing, and collection of ad valorem taxes, are hereby abolished; provided, that this shall not affect the commissions paid to the assessor of the several counties for services rendered in the collection of personal property taxes, as provided by chapter eight of the Political Code, or the mileage allowed to the treasurer of the several counties, or cities and counties, in making settlements with the state, as provided by section three thousand eight hundred and seventy-six of the Political Code.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect from and after its passage.

TAXATION—LICENSE—CORPORATIONS.

Relating to revenue and taxation, providing for a license tax upon corporations, and making an appropriation for the purpose of carrying out the objects of this act.

(Stats. 1905, 493, ch. CCCLXXXVI.)

§ 1. No corporation heretofore or hereafter incorporated under the laws of this state, or any other state, shall do or attempt to do any business by virtue of its charter or certificate of incorporation, in this state, without a state license therefor.

§ 2. Upon every corporation which has heretofore obtained or which shall hereafter obtain a charter or certificate of incorporation from this state, or any foreign corporation heretofore or hereafter incorporated and doing business in this state, there shall be an annual license tax of ten dollars, to be paid between the first Monday in July and the first Monday in August of each year, to the secretary of state, who shall pay the same into the state treasury, to be paid into the general fund of the state.

§ 3. Any corporation formed under the laws of this state which shall fail to pay the tax provided for in the last two sections, shall, because of such failure, forfeit its charter to the state, and any foreign corporation which shall fail to pay the tax provided for in the last two sections, shall, because of such failure, forfeit the right to do business in this state.

§ 4. It shall be the duty of the secretary of state on the first Monday of October in each year to report to the governor a list of all the corporations which have failed, neglected or refused to pay the said license tax, and the governor shall forthwith issue his proclamation, declaring under this act of the legislature, that the charters of domestic corporations will be forfeited, and the right of foreign corporations to do business in this state will be forfeited unless payment of said license tax is made as above required within sixty days from date of said proclamation, together with a penalty of five dollars in addition thereto.

§ 5. Said proclamation on the day of its date shall be filed in the office of the secretary of state, and within five days thereafter said secretary of state shall transmit a certified copy of said proclamation to the county clerk of each county in this state, who shall file the same in his office. Said secretary of state shall also within five days from the date of said proclamation, cause a copy thereof to be published in one issue of two daily newspapers, to be selected by the governor.

§ 6. At the expiration of said sixty days from the date of said proclamation, the charters of all domestic corporations who have not complied with the provisions of this act and paid said tax, shall be forfeited to the state of California, and all foreign corporations who have not complied with the provisions of this act and paid said tax, shall forfeit the right to do business in this state.

§ 7. Nothing in this chapter shall be construed as imposing a license tax on educational, religious, scientific, charitable, or any corporation which is not organized for pecuniary profit.

§ 8. Within six months after the date of said governor's proclamation, the secretary of state shall compile a statement of the domestic corporations whose charters have been so forfeited, and of the foreign corporations whose right to do business in this state has been forfeited, and he shall furnish a certified copy thereof to each county clerk in this state, who shall file the same in his office.

§ 9. Any person or persons who shall exercise any powers under the charter of any such corporation after the same shall become forfeited to the state, and

any person or persons who shall exercise any powers of a foreign corporation which shall have forfeited its right to do business in this state, shall be guilty of a misdemeanor.

§ 10. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of twenty-seven thousand (\$27,000) dollars, for the purpose of carrying out the objects of this act, to be used by the secretary of state in the employment of a license superintendent and cashier; one permanent clerk; such other clerks from time to time as may be necessary; for the purchase of the necessary desks, furniture, stationery, books, postage, and for the necessary printing, ruling, binding and materials furnished by the state printing office, and for all other necessary incidental expenses, to be used and expended during the balance of the fifty-sixth, and during the fifty-seventh, and fifty-eighth, fiscal years, and the state controller is hereby directed to draw his warrant for any claim against said amount, the same having been approved by the state board of examiners, and the treasurer is hereby directed to pay the same.

§ 11. This act shall take effect and be in force from and after its passage.

TAXATION—MIGRATORY STOCK.

Concerning the assessment of animals.

(Stats. 1871-2, 754, ch. DXI.)

§ 1. Whenever any person residing in any county of the state, and owning any neat cattle, horses, mules, sheep, or goats therein, shall drive the same from the county where he resides into any other county, for the purpose of temporarily pasturing the same, all such animals shall be assessed in and for the county where such owner resides, although the said animals shall not be at the time of said assessment in said county in which he may so permanently reside; and such owner shall include such animals in his assessment list, and the assessor of the county where such stock are so temporarily grazed shall list the same, with a full description of each kind and the number of the same; and for the purpose of making such list, the assessor shall have power, and it is hereby made his duty, to examine on oath the person or persons owning or having charge of such cattle, horses, mules, sheep, or goats touching their number, ownership, and to whom and in what county, if any, they have been assessed for taxation. The list made out as aforesaid by the assessor, together with a full statement of the same, shall be signed and sworn to by the person or persons owning or having in charge such stock.

§ 2. The assessor shall file a copy of said list of such stock with the county treasurer of his county, and another copy with the treasurer of the county in which the said stock was first listed and assessed for taxation. Upon filing the lists aforesaid, with the sworn statement therein that the stock specified in said lists has been pastured or used in the county mentioned therein during the grazing season, with the treasurer of the county in which it was assessed for taxation, said treasurer shall pay, on the order of the treasurer of the county in which the stock was so pastured or used, one half of the amount of taxes paid in on the said stock, less the cost of collection.

§ 3. All acts or parts of acts in conflict with this act, so far as they are in conflict with this act, are hereby repealed.

§ 4. This act shall take effect from and after its passage.

See *Rosasco vs. County Tuolumne*, 143 Cal. 430, 432, 77 Pac. Rep. 148.

It does not appear that the statute 1873-4, 376, ch. CCLXXIII, upon the same subject, was called to the attention of the court in

the above cited case. But this later statute was held unconstitutional in *People ex rel. Murphy vs. Shippee, McKee & Co.*, 53 Cal. 675, 676; and *People vs. Townsend*, 56 Cal. 633, 634.

TAXATION—POLITICAL CODE—SAN FRANCISCO.

To repeal an act of the legislature of the state of California, entitled "An act in relation to the assessment and collection of taxes upon personal property in the city and county of San Francisco," approved March 18, 1874, and requiring all counties and cities and counties of this state to conform to the requirements of the provisions of the Political Code in relation to the assessment, equalization, levy, and collection of taxes for revenue purposes.

(Stats. 1895, 308, ch. CCXVII.)

§ 1. An act entitled "An act in relation to the assessment and collection of taxes upon personal property in the city and county of San Francisco," approved March eighteenth, eighteen hundred and seventy-four, is hereby repealed.

§ 2. All counties and cities and counties of this state are hereby required to conform to the provisions of the Political Code in relation to the assessment, equalization, levy and collection of taxes on real and personal property for revenue purposes, and all laws now in force in relation to revenue are hereby made applicable to all such counties and cities and counties.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

§ 4. This act shall take effect immediately.

See *Unconstitutional Statutes*, KERR'S CYC. POL. CODE §§ 3627-3831.

TAXATION—REASSESSMENT.

In relation to reassessment of property, the equalization of the same, and the collection of taxes thereon, in cases where a former assessment made since eighteen hundred and seventy-nine is illegal or invalid, or where the proceedings for the collection of such taxes have been ineffectual by reason of error, irregularity, or invalidity, and such taxes have not been paid.

(Stats. 1893, 290, ch. CCVII.)

§ 1. Every assessment of property made after the year eighteen hundred and seventy-nine which is invalid, or may hereafter be adjudged to be, by reason of any illegality, invalidity, or irregularity declared or existing, in the assessment of such property, or in the mode provided for the assessment thereof, shall be remade, and the property reassessed and equalized for each year for which such assessment is invalid as aforesaid, and for the year for which the assessment of such property was invalid as aforesaid, and such reassessment and equalization shall be made by the same officers and boards at the same time or times, as are now prescribed by law for the assessment and equalization of property, of the same classes or kinds as the property which hereby is required to be reassessed. The assessment and equalized assessment of such property shall be entered on the several assessment rolls or books in the same

manner that assessments of such property are or were required by law to be entered for the year or years during which such reassessments shall be made. And there is hereby levied for state purposes the same rates of taxation for each of such respective years as were heretofore levied upon such property for each of said years for said state purposes.

§ 2. All taxes for counties, cities and counties, and other taxing districts, shall be levied by the proper board or boards upon the property mentioned in the first section of this act, at the same rates for each respective year as were levied upon property for each of said years after the year eighteen hundred and seventy-nine.

§ 3. All property authorized to be reassessed by this act shall be reassessed and equalized by the proper officers and boards at the value to which and to the person or corporation to whom or to which such property ought, for each of such years, to have been assessed, under such rules of notice and at the times and in the modes as are prescribed for the assessment and equalization of like classes of property; and the assessment and equalization thereof, and the levy and collection of taxes thereunder, shall be made by the proper officers at the time, upon like notice and in the manner now or hereafter provided by law for making assessments and equalizing the same and for the levy and collection of taxes on like classes of property; and if the taxes so levied shall become delinquent, there shall be added thereto and the amount thereof the same percentage as a penalty for such delinquency, as is added to other delinquent taxes on like classes of property, and such delinquent taxes and penalties added thereto shall be collected by the proper officers in the manner now or hereafter provided by law for the collection of delinquent taxes and penalties upon like classes of property; the collectors of such taxes to allow as credits thereon all payments heretofore made on the tax as first levied.

§ 4. There shall be no limitation or limitations as to the time in which actions for the collections of taxes levied under this act may be commenced, and all the provisions of law now or hereafter provided in respect to assessments, equalization, levy, and collection of taxes shall, where applicable, apply to reassessments, equalization, and levies and collections of taxes made under the provisions of this act.

§ 5. This act shall apply to taxes for revenue only, and not to assessments for local improvements or street purposes.

§ 6. This act shall take effect and be in force on and after its passage.

Colusa County vs. Glenn County, 117 Cal. Rep. 477; San Diego vs. Riverside, 125 Cal. 434, 440, 49 Pac. Rep. 457; County Colusa 425, 498, 53 Pac. Rep. 81.
vs. County Glenn, 124 Cal. 498, 500, 57 Pac.

TAXATION—SUITS TO COLLECT.

Authorizing and providing for suits for the collection of delinquent taxes due upon personal property.

(Stats. 1903, 130, ch. CXIX.)

§ 1. Each county and city and county may sue in its own name for the recovery of any and all moneys due or hereafter to become due as delinquent taxes upon any and all personal property, where no real property is assessed

as security for the payment of such personal property taxes, or where, in the judgment of the board of supervisors, there is not sufficient real property assessed to secure the payment of such personal property taxes, whether the same be for county or city and county, and state purposes, or either of them, and for all penalties due upon said taxes for non-payment thereof.

§ 2. On the trial of any such suit the assessment roll of said county or city and county, or a copy of any entry therein duly certified, showing unpaid taxes against the defendant, or, in cases where the defendant is sued in a representative capacity, against any person or estate he represents, shall be prima facie evidence of the plaintiff's right to recover.

§ 3. All actions now pending for the collection of such taxes may be carried on and prosecuted under the provisions and in accordance with this act.

§ 4. All acts and parts of acts in conflict with this act are hereby repealed, but the method of collecting such taxes herein provided shall not be deemed to be the exclusive method, nor shall the provisions of this act in any manner abrogate or modify the provisions of sections three thousand eight hundred and thirty-one or three thousand eight hundred and ninety-nine of the Political Code of the state of California.

§ 5. This act shall take effect and be in force immediately from and after its passage.

Under former statutes for collection of 601; Harper vs. Rowe, 53 Cal. 232, 236; Peo-
delinquent taxes by suit and recovery of ple vs. Latham, 53 Cal. 386.
costs, see People vs. Latham, 52 Cal. 598,

TAXATION—SYSTEM OF.

Authorizing the governor to appoint an expert in taxation and public finance, to sit as a member of a commission to be composed of himself and a general committee of the senate and assembly of the thirty-sixth session of the legislature of the state of California, of which commission the governor shall be ex officio a member and chairman, to investigate the system of revenue and taxation in force in this state, and to recommend a plan for the revision and reform thereof; to provide for the creation of said commission, and to define its powers, and making an appropriation therefor.

(Stats. 1905, 390, ch. CCCXXXIV.)

§ 1. If and when the senate and assembly of the thirty-sixth session of the legislature of the state of California shall provide for the appointment, and there shall be appointed pursuant to said provision, a joint committee of said senate and assembly to investigate the system of revenue and taxation in force in this state, and to recommend a plan for the revision and reform thereof, the governor is authorized to appoint an expert in taxation and public finance, to sit with said committee, and with said committee to constitute a commission upon the revision and reform of the system of revenue and taxation in force in this state. The governor shall be ex officio a member of said commission and shall be chairman thereof.

§ 2. Said expert shall hold his office at the pleasure of the governor.

§ 3. The compensation of said expert shall be fixed by the said commission in an amount not to exceed two hundred and fifty dollars per month.

§ 4. Said commission is authorized and empowered to do any and all things necessary to make a full and complete investigation of the matters and things hereinabove enumerated, and to that end to employ all necessary clerical and expert assistance, and that said commission be and it hereby is authorized and empowered to send for persons and papers, and to take all necessary means to procure the attendance of witnesses and testimony; and the members of said commission are, and each of them is, hereby authorized to administer oaths; and that all the provisions of article eight, of chapter two, title one, part three, of the Political Code of this state, relative to the "attendance and examination of witnesses before the legislature and committees thereof," shall apply to the commission; and that the sergeant-at-arms of either the senate or the assembly is hereby authorized and directed to serve [any] and all subpoenas and orders or other process that may be issued by the chairman of said commission, when directed to do so by the said chairman.

§ 5. The members of said commission, other than the chairman and the member appointed by the governor, shall be paid the sum of ten dollars (\$10) per diem and their necessary expenses, while actually engaged in the performance of their duties as prescribed in this act.

§ 6. There is hereby appropriated out of the general fund, not otherwise appropriated, the sum of ten thousand dollars, or so much thereof as may be necessary, for the purposes of this act.

§ 7. This act shall take effect immediately.

TAXATION—VALIDATING CERTIFICATES.

To confirm, validate and legalize certificates of tax sales and tax deeds executed to the state of California for property sold and deeded thereto for non-payment of taxes.

(Stats. 1903, 63, ch. LIX.)

§ 1. That all certificates of tax sales and tax deeds made to this state by the county tax collector, which certificates and deeds are based upon the sale of property for non-payment of taxes, and which certificates and deeds fail to recite the correct date, or any date, when the right of redemption will expire, or had expired, or which certificates recite an incorrect date when the state would be entitled to a deed, be and they are hereby confirmed, validated, and legalized, and the same shall be construed and operate at all times and upon all occasions in law in the same manner as if such matters and things required by law had been recited therein and performed in the first instance; provided, that in all cases five years shall have elapsed between the date of sale of the property to the state for non-payment of taxes and the date of the execution of such deed.

§ 2. This act shall take effect immediately.

TAXATION.

See tits. Collateral Inheritance; Legal Tender; License Tax; Municipal Corporations.

TEHAMA COUNTY.

Authorizing the transcribing of records of.

TELEGRAPH LINES.

See tit. **Franchises.**

TELEGRAPH MESSAGES.

For the regulation of the telegraph, and to secure secrecy and fidelity in the transmission of telegraphic messages.

(Stats. 1862, 288, ch. CCLXII; amended 1863-4, 232, ch. CCXXXIII.)

The above-mentioned statute has been codified substantially as follows: § 1, in Penal Code § 619; § 2, in Penal Code § 474; § 3, in Penal Code § 639; § 4, in Penal Code § 638, Civil Code §§ 2161, 2162, 2209; § 5, in Penal Code §§ 621, 639, 640; §§ 6, 7, in Penal Code § 641; § 8, in Penal Code §§ 591, 600, Civil Code § 537; § 10, in Code Civ. Proc.

§ 200; §§ 12, 17, 18, in Code Civ. Proc. § 1017; § 16, in Penal Code §§ 850, 851.

§§ 11, 14, 15, relating to contracts, checks, due bills, notes, etc., are believed to be governed by the general provisions of the Civil Code relating to contracts and by the general rules of evidence in the Code of Civil Procedure.

TELEGRAPHIC COMMUNICATION WITH ASIA.

To facilitate telegraphic communication between America and Asia.

(Stats. 1871-2, 97, ch. CIV.)

§ 1. Cyrus W. Field, Peter Cooper, Moses Taylor, Marshall O. Roberts, Wilson G. Hunt, Samuel F. B. Morse, Dudley Field, William H. Webb, all of the state of New York, and Darius Ogden Mills, of the state of California, and all other persons who shall or may be associated with them or their successors, are hereby authorized and empowered to lay, construct, land, maintain, and operate one or more telegraphic or magnetic lines or cables in and over the waters, reefs, islands, shores, and lands over which the state of California has jurisdiction, from the shores of the state of California to Japan and the Empire of China, either direct or by way of the Hawaiian Islands, or other island or islands of the Pacific Ocean, by the most practicable and eligible route. And the said parties above mentioned, and all other persons who shall or may be associated with them and their successors, are hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth, and, among others, the right of way through and over the waters and lands over which the state of California has jurisdiction.

§ 2. This act shall take effect immediately.

Special privileges are granted for telegraph lines from the Atlantic to the Pacific, Stats. 1865-6, ch. CXX; for line between San José and San Bernardino, 1865-6, 308,

ch. CCLXXVI, amended 1867-8, 530, ch. CCCCXVI; between Los Angeles and Wilmington, 1871-2, 87, ch. XC.

TEXT-BOOKS.

See tit. **School Books.**

THEATERS.

See tit. **Civil Rights of Persons.**

THRESHING-MACHINES.

See tits. **Labor Liens; Wages.**

THISTLE—CANADA OR SCOTCH.

See Stats. 1871-2, 214, ch. CLXXIX, relating to counties of Humboldt, Siskiyou, Klamath, Del Norte, and Alameda.

See also tit. **County Government Act**, § 25, subd. 26, ante.

TIMBER.

See tits. **Big Tree Grove**; **Yosemite**.

TOLAND MEDICAL COLLEGE.

See tit. **University of California**.

TORRENS LAND SYSTEM.

For the certification of land titles and the simplification of the transfer of real estate.

(Stats. 1897, 138, ch. CX.)

§ 1. Recorders and ex officio recorders in the several counties of this state shall be registrars of titles in their respective counties, and their deputies shall be deputy registrars. All laws relative to recorders and their deputies, including their compensation, clerk hire, and expenses, shall extend to registrars and their deputies, so far as the same may be applicable, except as in this act otherwise provided. Registrars of titles shall be county officers within the meaning of the laws of this state.

§ 2. The official bonds now required by law to be given by recorders and ex officio recorders before entering upon the discharge of their duties, shall also apply to and cover the faithful discharge of their duties as registrars, whether such additional condition be specifically provided for in such bonds or not.

§ 3. Deputies may perform any and all duties of the registrar, in the name of the registrar, and the acts of such deputies shall be held to be the acts of the registrar.

§ 4. Registrars and deputy registrars are prohibited from practising law, or acting as attorneys or counselors at law, or having as a partner a lawyer or any one who acts as such, or from acting as searchers of title under this act.

§ 5. Land may be brought under the operation of this act by the filing with the county clerk of a verified petition to the superior court of the county within which such land is situated, by the owner of any estate or interest in such land, whether legal or equitable (other than an undivided share, or an easement). The clerk shall immediately indorse on such application the exact time of its presentation, and enter the same in a book kept for that purpose and known as the land register docket. Persons who collectively claim to hold the entire legal estate in fee simple may jointly file such petition. A corporation may apply by its authorized agent, an infant by his guardian, any other person under disability by his guardian or trustee. Land constituting a single parcel and lying partly in two or more counties may be included in one application, which may be made in either county in which the land lies, but the certificate issued therefor must be filed with the registrars of all the counties within which such land is situated. Two or more parcels of land may be included in one application if owned by the same person and in the same right.

§ 6. The petition shall set forth substantially:

(a) The name, occupation, place of residence, and post-office address of the applicant, and if the application is by one acting in behalf of another, the name, place of residence, post-office address, and capacity of the person so acting, and the nature of the disability of the person for whom he is acting.

(b) Whether the applicant (except in case of a corporation) is married or not, and, if married, the name and residence of the husband or wife.

(c) The description of the land.

(d) The applicant's estate or interest in the same, and whether the same is subject to an estate of homestead.

(e) Whether the land is occupied or unoccupied, and, if occupied, the name and post-office address of each occupant, and what estate or interest he has or claims in the land.

(f) Whether the land is subject to any easement, lien, or encumbrance, and, if any, the name and post-office address if known of each holder thereof, and the nature and amount of the same, and, if recorded, the book and page of the record.

(g) Whether any other person has any estate or claims any interest in the land, in law or equity, in possession, remainder, reversion, or expectancy, and, if any, the name and post-office address if known of every such person, and the nature of his estate or claim.

(h) The names and post-office addresses of all the owners of the adjoining lands, so far as he is able, upon diligent inquiry, to ascertain the same.

(i) If the applicant is a male, that he is of the full age of twenty-one years; if a female, that she is of the full age of eighteen years. If the application is made by a corporation, its name, when and where incorporated, its principal place of business, and the names and post-office addresses of its president and secretary. If the application is by a husband or wife, and the property is community property, the petition must so state, and both spouses must join therein. A plat or plan of survey of the land made by the county or a licensed surveyor must accompany the application, and if said land is a part of a city, town, or subdivision, the application must refer to the book and page of the records of the county where the map of said city, town, or subdivision is recorded, if at all.

Each application must be accompanied by an abstract of the title, verified by the searcher making the same, as required in proceedings in partition, or, if made by a corporation engaged in the business of making and certifying abstracts of title, then in lieu of the affidavit a certificate by such corporation, under its seal, shall be sufficient. When the title to the land in question has been previously determined by a final decree of a court of competent jurisdiction, such abstracts need not antedate such decree unless required by the court in which such application is filed. No person or corporation shall be authorized to make or furnish such abstracts of title until after entering into an undertaking with two or more sufficient sureties to the people of the state of California in a sum not less than ten thousand dollars, which may be increased from time to time by order of the court. Such bonds shall be recorded in the record of official bonds in the recorder's office of the county and then filed in the county clerk's office. Said bonds shall be conditioned to pay all damages and costs which the state may sustain by reason of any error or insufficiency in said abstract. The

sureties on such bond shall qualify as provided in section ten hundred and fifty-seven of the Code of Civil Procedure, and the sufficiency of the bond and of the sureties thereon shall be approved by a judge of the superior court of the county where such bond is to be filed. The sureties upon such bond may become severally liable in portions of not less than five hundred dollars each, making in the aggregate at least two sureties for the whole sum. Said bond shall be renewed as often at least as once in every period of three years.

§ 7. No mortgage, lien, charge, or lesser estate than a fee simple shall be registered unless the fee simple to the same land is first registered.

§ 8. It shall not be an objection to bringing land under this act, that the estate or interest of the applicant is subject to any outstanding lesser estate, mortgage, lien, or charge; but every such lesser estate, mortgage, lien, or charge shall be noted upon the certificate of title and the duplicate thereof, and the title or interest certified shall be subject only to such estates, mortgages, liens, and charges as are so noted, except as herein provided.

§ 9. No title derived through sale for any tax or assessment shall be entitled to be first registered, unless it shall appear to the satisfaction of the court, upon the hearing of the application, that the applicant, or those through whom he claims title, have been in the open, actual, continuous, uninterrupted, undisputed, exclusive, and adverse possession of the land under such title at least five years, and have paid all taxes and assessments legally levied thereon for five successive years.

§ 10. The application may be amended only by petition verified as in the case of the original. Such amendment may be ordered by the court on its own motion, or upon the motion of any person interested in the proceeding.

§ 11. The filing of the application in the office of the county clerk shall be sufficient notice of the same to all subsequent purchasers or encumbrancers without the filing of a *lis pendens* in the office of the recorder.

§ 12. The court shall, in its discretion, examine the abstract itself, or refer the same, as provided in section eighteen of this act. If it shall appear to the court, from an examination of the abstract, or from the report of the referee, that the title to the land described in the application is substantially as alleged by the applicant, the application shall be set for hearing, otherwise the court may order the application dismissed.

§ 13. When the time and place for hearing the application is fixed by the court, notice thereof shall be given to all parties interested, as shown by the petition and the abstract or referee's report, and to the husband or wife of the applicant, if married, and the owners of adjoining lands, in the same manner as the service of a summons in a civil action, and by publication for at least four weeks, in some newspaper of general circulation, to be designated by the court; provided, that no copy of abstract or map need be served with the petition. Any person interested may appear and object to the granting of the application, and if such objection is sustained, the costs of the same shall be paid by the applicant; if not, by the person so objecting. The time for appearance after service shall be the same as in the case of a civil action.

§ 14. Upon the day set for the hearing of the application, or at such time as the same may be continued to, the court shall cause examination to be made into

the applicant's title to the land in question, and shall hear testimony as to the allegations of the petition, or of any objections thereto; and if any defects are found in the application, or in the applicant's title to the land, or if any of the allegations of the petition are found to be untrue, or any objections to said petition are sustained, the court may dismiss such application, or may give the applicant such further time as the court may deem reasonable, before finally passing upon his application.

§ 15. If it shall be made to appear, to the satisfaction of the court, that the notice required by section thirteen has been duly given and served; that the facts stated in the application are true, and that the applicant is the owner of the land, or interested therein, as set forth in the petition, the court shall duly make, give and enter a decree to that effect, which said decree shall contain an accurate description of the property in question, with a diagram thereof, and also shall set forth all liens and encumbrances on said land, with the name of the holder thereof, and the nature, amount, and order of the same, and, if recorded, the book and page of the record. Any party aggrieved by such decree may appeal therefrom in the manner now or hereafter provided by law for appeals in civil actions.

§ 16. A certified copy of such decree shall be filed in the office of the registrar, who shall thereupon issue a certificate of title to the person entitled thereto as shown by said decree, and shall proceed to bring said land under the operation of this act, as herein provided. Said certificate shall contain the description of the property set forth in the decree, and shall also show the nature, amount, and order of the liens thereon.

§ 17. The decree of the court ordering registration shall be in the nature of a decree in rem, and shall be final and conclusive as against the rights of every and all persons, known and unknown, to assert any estate, interest, claim, lien, or demand of any nature or kind whatever, against the land so ordered registered, except as provided in this act.

§ 18. Upon the filing of the petition the court may appoint a referee to examine and report upon the abstract accompanying the same. Such referee shall be an attorney in good standing, skilled in the examination of titles, of not less than three years' practice at the bar of the court so appointing him. The compensation of the searcher and of the referee shall be fixed by the court, or agreed upon between themselves and the applicant, and shall be paid by the applicant as a part of the costs of the proceeding.

§ 19. Whenever such abstract shall be made and such referee appointed, no decree shall be entered by the court until the written opinion of such referee shall be filed in the proceeding, showing the nature of the applicant's title to the land; and if the same is subject to any lesser estate, mortgage, lien, or charge, particularly specifying the same and the priority thereof. The estate of homestead shall be included in the term "lesser estate."

§ 20. Any applicant may, upon payment of all fees due, withdraw his application for registration at any time prior to the issuing of a certificate of title; and upon the written request of such applicant and the order of the court, the clerk shall return to the applicant all abstracts of title, deeds, and other instru-

ments, except depositions or affidavits deposited by him for the purpose of supporting his application.

§ 21. In case of the death or any disability of the applicant, the court, on motion, may allow the proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest the proceeding may be continued in the name of the original applicant, or the court may allow the person to whom the transfer is made to be substituted in the proceeding.

§ 22. The registrar shall immediately, upon the registration of any land, make an entry in a book kept by him for that purpose, showing the name of the person to whom the certificate was issued, its number, the day, hour, and minute of its issuance, the name of the person to whom the duplicate certificate was delivered, and the book and page where the original certificate is entered or recorded.

§ 23. Every first and subsequent certificate of title shall be in duplicate and numbered consecutively and bear date the year, month, day, hour, and minute of its issue, and be under the hand and official seal of the registrar, one copy of which shall be retained by the registrar and be known as the original, and the other shall be delivered to the owner, or person acting for him, and be known as the duplicate. It shall state whether the owner, except in the case of a corporation, executor, administrator, assignee, or other trustee, is married or not married, and the name of the husband or wife. If the owner is a minor it shall state his age; if under any other disability, the nature of the disability. If issued to an executor or administrator, the certificate shall show the name of the deceased testator or intestate; if to an assignee in insolvency, the name of the insolvent. The registrar shall note at the end of the certificate, original and duplicate, in such manner as to show and preserve their priorities, the particulars of all estate, mortgages, liens, encumbrances, and charges to which the owner's title is subject.

§ 24. No particular form of certificate of title is required, but the same may be, subject to such changes as the case may require, substantially in the following form:

State of California, }
County of ———— } ss.

A B (state occupation and residence, giving street and number), state of California (if an administrator, give the name of the deceased; if a minor, give his age; if under other disability, state its nature), married to (name of husband or wife, or if not married so state), is the owner of an estate in fee simple (or as the case may be) in the following land (insert description contained in the decree). Subject, however, to the estates, easements, liens, encumbrances, and charges hereunder noted. (In case of trust, condition, or limitation, say "in trust," or "upon condition," or "with limitation," as the case may be.)

1. Mortgage to C D for the sum of \$——, dated ——, payable —— after date, with interest at —— per centum per ——, interest payable ——.

2. Mechanic's lien in favor of X Y for \$——, filed ——.

3. Assessment for improvement of —— street. Amount \$——, due ——.

(Any other encumbrances or charges.)

In witness whereof, I have hereunto set my hand and caused my official seal to be affixed, this — day of —.

Registrar of titles in and for the county of —, state of California.
[Seal.]

§ 25. In all cases where two or more persons are entitled as tenants in common to an estate in registered land, such persons may receive one certificate for the entirety, or each may receive a separate certificate for his undivided share.

§ 26. Upon the application of any registered owner of land held under separate certificates of title, or under one certificate, and delivering up of such certificate or certificates of title, the registrar may issue to such owner a single certificate of title for the whole of such land, or several certificates, each containing a portion of such land, in accordance with such application, and as far as the same may be done consistently with any regulations at the time being in force, respecting the certificates of land that may be included in one certificate of title; and upon issuing any such certificate of title said registrar shall indorse on the last previous certificate of title of such land so delivered up a memorial, setting forth the occasion of such cancelation and referring to the volume and folium of the new certificate or certificates of title so issued.

§ 27. In the event of a duplicate certificate of title being lost, mislaid, or destroyed, the owner may apply to the court for an order upon the registrar to issue a certified copy of the original certificate of registration. Upon the hearing of such application, the court may order such notice to be given to such persons, and for such time as it may deem proper. If the court is satisfied that the applicant is the person named in the original certificate on file in the registrar's office, and that the duplicate certificate has been lost, mislaid, or destroyed, the court shall make an order directing the registrar to issue a certified copy of the original certificate to the applicant. A certified copy of such order shall be filed in the registrar's office, who shall thereupon issue to such applicant a certified copy of the original certificate, with the memorials and notations appearing upon the register, and shall note upon the register the fact, cause, and date of such issue, and shall also mark upon such certified copy: "Owner's certified copy, issued in place of lost (mislaid, or destroyed, as the case may be) certificate," and such certified copy shall stand in the place of, and have like effect, as the missing duplicate certificate. In case of a lost certificate, no transfer of the land shall be made until such certified copy is issued by the registrar. A certified copy of the certificate of title may be issued by the registrar for use as evidence, upon the receipt by him of an order therefor made by the court; provided, that such certified copy shall have written or stamp across the face thereof the words "For use as evidence only." The issuance of such certified copy and the purpose thereof shall also be noted upon the original certificate by the registrar.

§ 28. If an owner's name or description is incorrectly registered, or becomes changed (e. g. by marriage, adoption, divorce, etc.), the court, upon the filing of an application and proof of facts in the manner set forth in,

section twenty-seven of this act, and the production by the owner of the duplicate certificate, shall order the registrar to issue a new certificate, with such changes as the case may require.

§ 29. The registrar shall keep a book, to be known as the "Register of Titles," wherein he shall enter all original certificates of title, in the order of their numbers, with appropriate blanks for the entry of memorials and notations allowed by this act. Each certificate, with such blanks, shall constitute a separate folium of such book. All memorials and notations that may be entered upon the register under the terms of this act shall be entered upon the folium constituted by the last certificate of title of the land to which they relate. Each certificate of title shall be numbered the same as the folium of the register on which the registration of the title of which it is a duplicate is entered.

§ 30. Before the delivery of any duplicate certificate of title, a receipt for it shall be required to be signed by the owner. Where such receipt is signed in the presence of the registrar or a deputy, it shall be witnessed by such officer. If signed elsewhere, it shall be acknowledged before any officer authorized to take acknowledgments of deeds.

§ 31. In every case of first registration of land or an estate or interest therein, the same shall be deemed to be registered under this act, when the registrar shall have marked upon the certificate of title, in duplicate, the volume and folium of the register in which the original may be found.

§ 32. Every transfer of registered land shall be deemed to be registered under this act, when the new certificate to the transferee shall have been marked, as in the case of the first registration; and all other dealings shall be considered as registered when the memorial or notation shall have been entered in the register upon the folium constituted by the existing certificate of title of the land. But, for the protection of the transferee or person claiming through any transfer or dealing, the registration shall relate back to the time of filing in the registrar's office the deed, instrument, or notice pursuant to which the transfer memorial or notation is made.

§ 33. Any person feeling himself aggrieved by the action of the registrar, or by his refusal to act in any matter pertaining to the first registration of land, or any subsequent transfer, or charge upon the same, or failing, or neglecting, or refusing to file any instrument, or to enter or cancel any memorial or notation, or to do any other thing required of him by this act, may file a complaint in the superior court making the registrar and other persons, whose interests may be affected, parties defendant, and the court may proceed therein as in other cases, and make such order or decree as shall be according to equity and the purport of this act. A certified copy of such order or decree shall be presented to the registrar, who shall file the same and make such entry thereof as by this act required.

§ 34. The registered owner of any estate or interest in land brought under this act shall, except in case of fraud to which he is a party, or of the person through whom he claims without valuable consideration paid in good faith, hold the same subject only to such estates, mortgages, liens, charges, and interests as may be noted in the last certificate of title in the registrar's office, and free from all others, except:

1. Any subsisting lease or agreement for a lease for a period not exceeding one year, where there is actual occupation of the land under lease. The term "lease" shall include a verbal letting.

2. All public highways embraced in the description of the lands included in the certificate.

3. Any subsisting right of way or other easement, however created, upon, over, or in respect of the land.

4. Any tax or special assessment for which a sale of the land has not been had at the date of the certificate of title.

5. Such right of action or claim as is allowed by this act.

6. Liens, claims, or rights arising under the laws of the United States, which the statutes of California cannot require to appear of record upon the register.

§ 35. After land has been registered no title thereto adverse or in derogation to the title of the registered owner shall be acquired by any length of possession.

§ 36. Except in case of fraud, and except as herein otherwise provided, no person taking a transfer of registered land, or any estate or interest therein, or of any charge upon the same from the registered owner, shall be held to inquire into the circumstances under which, or the consideration for which, such owner or any previous registered owner was registered, or be affected with notice, actual or constructive, of any unregistered trust, lien, claim, demand, or interest; and the knowledge that any unregistered trust, lien, claim, demand, or interest is in existence shall not of itself be imputed as fraud.

§ 37. In case of fraud, any person defrauded shall have all rights and remedies that he would have had if the land were not under the provisions of this act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

§ 38. If a deed or other instrument is registered, which is forged, or executed by a person under legal disability, such registration shall be void; provided, that the title of a registered owner, who has taken bona fide for a valuable consideration, shall not be affected by reason of his claiming title through some one the registration of whose right or interest was void, as provided in this section.

§ 39. No unregistered estate, interest, power, right, claim, contract, or trust shall prevail against the title of a registered owner taking bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

§ 40. In any suit for specific performance brought by a registered owner of any land under the provisions of this act against a person who may have contracted to purchase such land, not having notice of any fraud or other circumstances which, according to the provisions of this act, would affect the right of the vendor, the certificate of title of such registered owner shall be held in every court to be conclusive evidence that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described.

§ 41. In any action or proceeding brought for ejectment, partition, or pos-

session of land, the certificate of title of a registered owner shall be held in every court to be conclusive evidence, except as herein otherwise provided, that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described, and that such registered owner is entitled to the possession of said land.

§ 42. The register of any land, and duly certified copies thereof, shall, except as herein otherwise provided, be received in law and in equity as evidence of the facts therein stated, and as conclusive evidence that the person named therein as owner is entitled to the land for the estate or interests therein specified.

§ 43. Whenever a memorial has been entered, as permitted by this act, the registrar shall carry the same forward upon all certificates of title until the same is canceled in some manner authorized by this act.

§ 44. All dealings with land or any estate or interest therein, after the same has been brought under this act, and all liens, encumbrances, and charges upon the same subsequent to the first registration thereof, shall be deemed to be subject to the terms of this act, and to such amendments and alterations as may hereafter be made. The bringing of land under this act shall imply an agreement which shall run with the land, that the same shall be subject to the terms and provisions of the act and of amendments and alterations thereof.

§ 45. No person shall commence any action at law or in equity for the recovery of land, or assert any interest, right in, or lien or demand upon the same, or make entry thereon adversely to the title or interest certified in the first certificate bringing the land under the operation of this act, unless within five years after the first registration. It shall not be an exception to this rule that the person entitled to bring the action or make the entry is an infant, lunatic, or is under any disability, but action may be brought by such person by his next friend or guardian. It shall be the duty of the guardian, if there is any, to bring action in the name of his ward whenever it is necessary to preserve or enforce the ward's rights in registered land; provided, however, before such action shall proceed, it must be made to appear to the court that the person bringing such action, or those under whom he claims, had no actual notice of the proceedings to register such lands in time to appear and file his objections or assert his claim.

§ 46. The action provided for in the last preceding section, shall in no way affect or disturb the rights of any person in said land, acquired subsequent to the registration thereof, bona fide and without knowledge, and for a valuable consideration.

§ 47. Any person having any interest, right, title, lien, or demand, whether vested, contingent, or inchoate, in, to, or upon registered land which existed at the time the land was first registered, and upon or for which no cause of action shall have accrued at the date of the registration of the land, may, prior to the expiration of said five years after such registration, file in the registrar's office a notice, under oath, setting forth his interest, right, title, lien, or demand, and how and under whom derived, and the character and nature thereof; and if such claim is so filed, an action may be brought to assert or recover or enforce the same at any time within one year after the right of action shall have accrued thereon, or at any time within the period of five years after said first registration, and not afterwards. It shall be the duty of a life tenant or trustee to file such

claim on behalf of any remainderman or reversioner, whether the remainder or reversion be at the time vested or contingent, and of a guardian to file such claim on behalf of his ward.

§ 48. A registered owner of land desiring to transfer his whole estate or interest therein, or some distinct part or parcel thereof, or some undivided interest therein, or to grant out of his estate an estate for life or for a term of not less than ten years, may execute to the intended transferee a deed or instrument of conveyance in any form authorized by law for that purpose. And upon filing such deed or other instrument in the registrar's office and surrendering to the registrar the duplicate certificate of title, the transfer shall be complete and the title so transferred shall vest in the transferee; thereupon, the registrar shall issue in duplicate and register, as hereinbefore provided, a new certificate, certifying the title to the estate or interest in the land desired to be conveyed to be in the transferee, and shall note upon the original and duplicate certificate the date of the transfer, the name of the transferee, and the volume and folium in which the new certificate is registered, and shall stamp across the original and surrendered duplicate certificate the word "Canceled," in whole or in part, as the case may be.

§ 49. When only a part of the land described in a certificate is transferred, or some estate or interest in the land is to remain in the transferor, a new certificate shall be issued to him for the part, estate, or interest remaining in him.

§ 50. The registrar shall mark as filed every deed, mortgage, lease, and other instrument which may be filed in his office, in the order of its receipt, and shall note thereon at the date of filing the minute, hour, day, and year it is received. When the date of filing any instrument is required to be entered upon the register, it shall be the same as that indorsed upon such instrument.

§ 51. All instruments, notices, and papers required or permitted by this act to be filed in the office of the registrar, shall be retained and kept in such office, and shall not be taken therefrom except by a subpoena duces tecum issued to, and served upon the registrar by a court of record. But the registrar, on demand, the proper fee being tendered therefor, shall deliver to any person a copy or copies of such an instrument, with all memoranda, memorials, and indorsements thereon, duly certified under his hand and seal of office. The registrar shall, however, upon all such copies, indorse thereon in writing across the face thereof, in red ink, "Copy, no rights conveyed hereby."

§ 52. Every copy of original instruments so certified as provided for in the last preceding section, shall be received in all cases in place of the original, and as evidence have the same force and effect as the original instrument.

§ 53. Like forms of deeds, mortgages, leases, and other instruments as are now or may hereafter be sufficient in law for the purpose intended, may be used in dealing with registered land and any estate or interest therein. Such instrument shall give the number of the certificate of title of the land described therein. But an indorsement, duly acknowledged, upon the duplicate certificate of title, substantially in the following form, viz.: "I ———, grant to ——— the real property described in this certificate. Witness ——— hand ——— and seal ——— this ——— day of ———, ———," shall be sufficient to transfer the property in said certificate described.

§ 54. On all instruments presented to the registrar for registration shall be indorsed the name and address of the person so presenting the same, and all notices relating to the land therein described may be served on such person at such address. The address may be changed from time to time by such person filing with the registrar a written notice of such change.

§ 55. A deed, mortgage, lease, or other instrument purporting to convey, transfer, mortgage, lease, charge, or otherwise deal with registered land, or any estate or interest therein, or charge upon the same, other than a will or a lease not exceeding one year where the land is in the actual possession of the lessee or his assigns, shall take effect only by way of contract between the parties thereto, and as authority to the registrar to register the transfer, mortgage, lease, charge, or other dealing upon compliance with the terms of this act. On the filing of such instrument, the land, estate, interest, or charge shall become transferred, mortgaged, leased, charged, or dealt with according to the purport and terms of the deed, mortgage, lease, or other instrument. The registrar shall immediately, upon the filing of such instrument, stamp or write upon the original and duplicate certificates of title the word "Transferred," "Mortgaged," "Leased," or otherwise, as the case may require, with the date of filing such instrument.

§ 56. No transfer of title to land, or any estate or interest therein, or mortgage, shall be registered, if the last original certificate shows that the land has been sold for any tax or assessment upon which a deed has been given, and that the title is outstanding, or upon which a deed may thereafter be given, or if said certificate shows that the estate of homestead, if any, has not been released or extinguished, unless the transfer or mortgage is intended to be subject to such tax sale or homestead estate, in which case it shall be so stated in the certificate of title.

§ 57. Every certificate of title to land shall state whether the transferee (except when the latter is a corporation, executor, administrator, or assignee) is married or not married, and if married, the name of the husband or wife. If the transferee be an executor or administrator, the certificate shall give the name of the deceased testator or intestate, and if the transferee be an assignee, the name of the insolvent. The transferee shall furnish the registrar the necessary information before he shall be entitled to have the land transferred to him on the register.

§ 58. Every mortgage, lease, contract to sell, or other instrument intended to create a lien, encumbrance, or charge upon registered land, or any interest therein, shall be deemed to be a charge thereon, and must be registered as hereinafter provided.

§ 59. On the filing of the instrument intended to create the charge in the registrar's office, and the production of the duplicate certificate of title, and it appearing from the original certificate of title that the person intending to create the charge has the title and right to create such charge, and the person in whose favor the same is sought to be created being entitled by the terms of this act to have the same registered, the registrar shall enter upon the proper folium of the register, and also upon the duplicate certificate, a memorial of the purport thereof, and the date of filing the instrument, with a reference thereto, by its file number, which memorial shall be signed by the registrar. The registrar

shall also note upon the instrument on file the volume and folium of the register where the memorial is entered.

§ 60. A trust deed in the nature of a mortgage shall be deemed to be a mortgage, and be subject to the same rules as a mortgage.

§ 61. When any mortgage, lease, or other instrument creating or dealing with a charge upon registered land or any estate or interest therein, is in duplicate, triplicate, or more parts, only one of the parts need be filed and kept in the registrar's office; but the registrar shall note upon the register whether the same is in duplicate, triplicate, or as the case may be, and shall also mark upon the others "Mortgagee's Duplicate," "Lessor's Duplicate," "Lessee's Duplicate," or as the case may be, and note upon the same the date of filing and the volume and folium of the register where the memorial is entered, and deliver them to the parties entitled thereto.

§ 62. When an instrument is not executed in a sufficient number of parts for the convenience of the parties, the registrar may make and deliver to each of the parties entitled thereto certified copies of the instrument filed in his office, with the indorsements thereon, marking the same "Mortgagee's Certified Copy," "Lessor's Certified Copy," or as the case may be, and shall note upon the register the fact of issuing such copies. Such certified copies shall have the same force and effect and be treated as duplicates.

§ 63. The holder of any charge upon registered land, desiring to transfer the same or any part thereof, may execute an assignment of the whole or any part thereof. The assignment of a part only must state whether the part transferred is to be given priority, to be deferred, or to rank equally, with the remaining part. Upon such assignment being filed in the office of the registrar and the production of the duplicate or certified copy of the instrument creating the charge held by the assignor, the registrar shall enter in the register opposite the charge, a memorial of such transfer, and how it ranks, with a reference to the assignment by its file number; he shall also note upon the instrument on file in his office intended to be transferred, and upon the duplicate or certified copy thereof produced, the volume and folium where the memorial is entered, with the date of the entry. The transferee shall be entitled to have a certified copy of the instrument of transfer, with the indorsement thereon, and in case of the transfer of the entire charge, the duplicate or certified copy of the instrument creating the charge.

§ 64. A release, discharge, or surrender of a charge, or any part thereof, or of any part of the land charged, may be effected in the same way as above provided in the case of a transfer. In case only a part of the charge or of the land is intended to be released, discharged, or surrendered, the entry shall be made accordingly; but when the whole is released, discharged, or surrendered at the same or several times, the registrar shall stamp across the instrument on file, and the memorial thereof, and the duplicate or certified copy produced, the word "Canceled."

§ 65. All charges upon registered land, or any estate or interest in the same, may be enforced as now or hereafter allowed by law, and all laws with reference to the foreclosure and release or satisfaction of mortgages shall apply to mortgages upon registered land, or any estate or interest therein,

except as herein otherwise provided, and except that until notice of the pendency of any suit to enforce or foreclose such charge is filed in the registrar's office, and a memorial thereof entered on the register, the pendency of such suit shall not be notice to the registrar, or any person dealing with the land or any charge thereon.

§ 66. Before any person can convey, charge, or otherwise deal with registered land, or any estate or interest therein, as attorney in fact for another, the deed or instrument empowering him so to act shall be filed with the registrar, and a memorial thereof entered upon the original and duplicate certificates. If the attorney shall so desire, the registrar shall deliver to him a certified copy of the power of attorney, with the indorsements thereon. Revocation of a power may be registered in like manner.

§ 67. Whenever a deed or other instrument is filed in the registrar's office for the purpose of effecting a transfer of, or charge upon, registered lands, or any estate or interest therein, and it appears from such instrument that the transfer or charge is to be in trust, or upon any condition or limitation therein expressed, the registrar shall note in the certificate, and the duplicate thereof, or memorial, the words "in trust," or "upon condition," or "with limitations," as the case may be, but no entry shall be made of the particulars of any such trust, conditions, or limitations.

§ 68. The trustee or transferee in any such instrument named, if the instrument contains the words "with power of sale," shall have power to deal with the land as the owner thereof; and a bona fide purchaser, mortgagee, or lessee is not bound to inquire into or determine whether or not the acts of such trustee are in accordance with the terms and conditions of the trust. When such power is conferred, the registrar shall note upon the certificate and duplicate thereof the words "with power of sale."

§ 69. If, however, such instrument does not contain the words "with power of sale," such trustee shall have no power to sell or otherwise deal with the land without an order of court so to do, duly given and made, a certified copy of which said order shall be filed with the registrar, and a memorial thereof entered upon the certificate of title, which shall be conclusive evidence as against all persons that the authority of such trustee was duly executed in accordance with the true intent and meaning of the trust, condition, or limitation.

§ 70. A trustee under any will admitted to probate, unless such power shall have been expressly withheld by the terms of such will, shall have power to deal with any registered land held by him in trust as fully in every respect as if such lands belonged to him individually.

§ 71. The distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land that is within the jurisdiction of any court by reason of the pendency of probate, insolvency or equity proceedings, shall be made under the same conditions and limitations as now or hereafter provided by the law of this state.

§ 72. The court in its order or decree making such distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land, shall direct the registrar to issue a certificate of title, or to note a me-

morial of the transaction, as the case may require, in accordance with such order or decree.

§ 73. The executor, administrator, assignee, receiver, or other person acting under the direction of said court, shall file with the registrar a certified copy of such order or decree, also the deed, lease, mortgage, or other instrument executed in accordance with such order or decree, and also a certified copy of the order or decree confirming such sale, lease, mortgage, or other transaction, when such confirmation is required by law.

§ 74. Executors, administrators, and assignees in insolvency shall have no power of sale of lands registered in their names as such, without an order of court obtained for that purpose. Before any certificate can be issued to the purchaser, such sales shall be reported for confirmation to the court under whose authority such executor, administrator, or assignee is acting, and if confirmed a duly certified copy of the order of confirmation shall be filed in the office of the registrar, and a memorial thereof entered upon the certificate of title. Upon the filing of the certified copy of such order of confirmation and the entry of such memorial, the registrar shall issue a certificate to the purchaser at such sale, which certificate, in addition to the usual contents thereof, shall refer to the said order of confirmation. Such order of confirmation shall be conclusive evidence that the sale was in all respects conducted in accordance with law, and the purchaser shall not be bound to inquire into the regularity of the proceeding, or power of the executor or administrator to make such sale.

§ 75. If a testator, by his will, has provided that the executor thereof shall have a power of sale of real estate, the court shall direct the registrar to register the words "with power of sale," in respect of the land of the deceased, and such executor shall have power to sell such land without an order of court so to do, but such sales must be confirmed by the court in the manner now or hereafter provided by the law of this state, and a duly certified copy of the order of such confirmation shall be filed with the registrar before any certificate of title can be issued to the purchaser of such land.

§ 76. Thereupon the registrar shall issue the certificate of title, or note the memorial, as the case may require; and such certificate of title or memorial noted shall be conclusive evidence in favor of all persons thereafter dealing with said land.

§ 77. A purchaser of registered land sold for any tax or assessment, shall, within one day after such purchase, file in the office of the registrar a written notice of such purchase. And thereupon the registrar shall enter a memorial thereof upon the certificate of title, and shall mail to each person named in the certificate, or in the memorials thereon, a copy of said notice, a sufficient number of said copies to be furnished to the registrar by said purchaser at the time of filing said notice. In case the state or a municipal corporation becomes the purchaser of land sold for any tax or assessment, the tax collector shall, within one day thereafter, file with the registrar a notice to that effect. And thereupon the registrar shall enter a memorial thereof upon the register, and shall mail notices to interested parties, as in the case of an individual purchaser. Unless such notice is given as herein provided, the land shall be for-

ever released from the effect of such sale, and no deed shall be issued in pursuance thereof.

§ 78. A tax deed of registered land, or of any estate or interest therein, issued in pursuance of any sale for a tax or assessment made after the taking effect of this act, may be presented by the holder thereof to the registrar, who shall thereupon enter upon the register a memorial of such deed; but such deed, unless the same shall have been issued to the state, shall have only the effect of an agreement for the transfer of the title, and before any certificate of title shall be issued for the land described in such deed, the holder thereof must file with the clerk of the superior court an application for a decree showing the title to said land to be vested in him.

§ 79. All persons appearing upon the register to be interested in said land, and also the person who appears, by the tax collector's books to have paid the tax or assessment last paid before the sale on which the deed is issued, shall be notified; and any person claiming an interest in the land may, upon the hearing of such application, show, as cause why a certificate of title should not issue to the holder of said deed, any fact that might be shown in law or in equity on his behalf to set aside such tax deed, and the applicant shall be required to show affirmatively that all the requirements of the statute to entitle him to a deed have been complied with.

§ 80. Such application shall be heard by the court, which shall render a decree showing the condition of the title to such land, and who is the owner thereof, and upon presentation to him, of a duly certified copy of such decree, the registrar shall issue a certificate for said land in accordance with the terms and conditions of said decree.

§ 81. In case a tax deed of registered land is issued to the state or any municipal corporation, in pursuance of any sale for a tax or assessment made after the taking effect of this act, the registrar shall, upon the filing of such deed in his office, cancel the certificate for the land in said deed described, and issue a new certificate to the state therefor.

§ 82. The notice required in section eighty shall be given upon all persons residing in the state by personal service, and upon all persons living out of the state by mail and by publication in the manner now or hereafter required by the laws of this state in an action to quiet title. If such personal service be made by a sheriff or constable, his certificate, and if by any other person, his affidavit, shall be sufficient proof thereof. In case the place of residence of any person is not known to the registrar or the holder of such deed, notice shall be given by publication in a newspaper of general circulation in the county in which the land is situated, at least once a week for four consecutive weeks. Proof of such publication must be made in the manner now or hereafter required by the laws of this state.

§ 83. Upon presentation to him of a certificate of redemption from any tax sale, the registrar shall cancel the memorial of said sale upon the certificate of title.

§ 84. In proceedings for partition of registered land, proof must be made that all persons, shown by the register of title to be interested in the land, have been made parties to such proceeding.

§ 85. On confirmation of the report of the commissioners setting off registered lands in proceedings for partition, it shall be the duty of the parties to whom the lands are allotted, to cause a certified copy of the judgment or decree to be filed with the registrar. Thereupon the registrar shall transfer the same upon the register, and issue certificates of title to the persons entitled thereto, as shown by said decree.

§ 86. Whenever, in proceedings for partition of registered land, the court shall order a sale of such land, and the same is sold under such order, the purchaser shall file with the registrar a certified copy of the order confirming said sale, together with certificate of the officer holding the writ, that the terms of the sale have been complied with. Thereupon, the registrar shall transfer said land upon the register, and issue a certificate of title to the purchaser, therefor.

§ 87. When a tenant in common has given any mortgage, or granted any other lien or interest upon his undivided interest, and the same is set off in severalty in proceedings for partition, such mortgage, lien, or other interest shall attach only to the lands so set off, and the registrar shall note the same upon a new register of title, and a new certificate of title, and shall indorse a memorandum of the partition upon the instrument creating such lien, mortgage, or other interest, if the same be on file in his office, before a new certificate of title shall be issued therefor.

§ 88. Whenever registered land shall be sold to satisfy any judgment, decree, or order of court, the purchaser shall file with the registrar a duly certified copy of the order of sale, or of the order confirming such sale, when the same needs to be confirmed by the court, and also the certificate, if any, of the officer, that the terms of sale have been complied with, and thereupon the registrar shall transfer the land to him, and issue a new certificate of title therefor to said purchaser.

§ 89. No suit, bill, or proceeding at law or in equity for any purpose whatever, affecting registered land, or any estate or interest therein, or any charge upon the same, shall be deemed to be *lis pendens* or notice to any person dealing with the same until notice of the pendency of such suit, bill, or proceeding shall be filed with the registrar and a memorial thereof entered by him upon the register of the last certificate of the title to be affected; provided, however, this section shall not apply to attachment proceedings when the officer making the levy shall file his certificate as hereinafter provided.

§ 90. When any suit, bill, or proceeding affecting registered lands has been dismissed or otherwise disposed of, or any judgment, decree, or order has been satisfied, released, reversed, or modified, or any levy of execution, attachment, or other process has been released, discharged, or otherwise disposed of, it shall be the duty of the sheriff, or the clerk of the court in which such proceedings were pending, or had, as the case may be, forthwith, under his hand, and, if the clerk, under the seal of the court, to certify to and file with the registrar, an instrument showing such discharge or release. Upon the same being filed, the registrar shall enter a memorial of such discharge on the register. The costs of such certificate and memorial shall be taxed as other costs in the case.

§ 91. No judgment, or decree, or order of any court shall be a lien on or in anywise affect registered land, or any estate or interest therein, until a certified copy of such judgment, decree, or order, under the hand and official seal of the clerk of the court in which the same is of record, is filed in the office of the registrar, and a memorial of the same is entered upon the register of the last certificate of the title to be affected.

§ 92. Whenever registered land is levied upon by virtue of any writ of attachment, execution, or other process, it shall be the duty of the officer making such levy forthwith to file with the registrar a certificate of the fact of such levy, a memorial of which shall be entered upon the register; and no lien shall arise by reason of such levy until the filing of such certificate and the entry in the register of such memorial, any notice thereof, actual or constructive, to the contrary notwithstanding.

§ 93. Notice of liens under the provisions of the mechanics' lien laws of this state shall be filed in the registrar's office, and a memorial thereof, entered by him upon the register, as in the case of other charges, and such liens may be enforced as now or hereafter allowed by law. Until such notice is so filed and registered, no lien shall be deemed to have been created.

§ 94. When in a city, town, or county, an ordinance, resolution, or order is passed or made, to lay out, establish, alter, widen, grade, regrade, relocate, or construct or repair a street, sidewalk, drain or sewer, or to make any other public improvement, or to do any work, the whole or a portion of the expense for which assessments may be made upon real estate, if any registered land or any land included in an application for registration then pending is affected by the act or proceeding and liable to such assessment, the clerk of the board passing such ordinance, resolution, or order shall, within five days after the passage of such ordinance, resolution, or order, file in the registrar's office a notice of the passage thereof, and a memorial shall thereupon be noted on the register. In case of the repeal of such ordinance, resolution, or order, the clerk of said board, and in case of the satisfaction of any lien thereunder, the superintendent of streets or other officer required by law to collect and receive such assessments, shall, within five days thereafter, notify the registrar, who shall thereupon cancel such memorial.

§ 95. No statutory or other lien shall be deemed to affect the title to registered land until after a memorial thereof is entered upon the register, as herein provided, except in cases of liens for labor performed for a corporation, as provided in the act of the legislature of the state of California, approved March thirty-first, eighteen hundred and ninety-one.

§ 96. The certificate of the clerk of the court in which any suit, bill, or proceeding shall have been pending, or any judgment or decree is of record, that such suit, bill, or proceeding has been dismissed or otherwise disposed of, or the judgment, decree, or order has been satisfied, released, reversed, or overruled, or of any sheriff or other officer that the levy of any execution, attachment, or other process certified by him has been released, discharged, or otherwise disposed of, being filed in the registrar's office and noted upon the register, shall be sufficient to authorize the registrar to cancel or otherwise treat the memorial of such suit, bill, proceeding, judgment, decree, or levy, according to the purport of such certificate.

§ 97. After a title has been registered and a certificate issued therefor, or after a memorandum, notation, or memorial has been made on the register of title and has been attested, no correction, alteration, or erasure shall be made therein or thereof, except in the manner herein provided.

§ 98. Whenever it appears to the registrar that there is an error or omission in any certificate or memorial, or that any certificate or memorial has been made, entered, indorsed, issued, or canceled by mistake, he may apply to the court for an order summoning all persons registered as interested in the lands to which such certificate or memorial relates, to appear at an appointed time and place and produce their duplicate certificates and show cause why such omission or mistake should not be corrected, and shall thereupon enter a memorial of such application on the register.

§ 99. If at the time and place appointed all such persons appear and consent, the court may order and direct the registrar to correct any such error, omission, or mistake on the register and on any duplicate certificate, and may direct the cancellation of any certificate or memorial entered by mistake.

§ 100. If such persons, or any of them, fail to appear, or do not consent, the court may proceed to hear testimony as to such alleged error, omission, or mistake, and if it appear to the satisfaction of the court that an error, omission, or mistake has been made, he shall order and direct the registrar to correct the same and to cancel or modify such certificates or memorials as may be necessary to correct such error or mistake. When such error or mistake has been caused by the fault or neglect of the registrar, the costs of such proceedings shall be paid by the state; if by the fault of any person registered as interested in such land, by such person. A certified copy of the order of court, directing the correction of any error, omission, or mistake in respect to any certificate or memorial, shall be filed in the registrar's office before such correction shall be entered or made.

§ 101. Nothing in this act shall be construed to in anywise affect or modify the exercise of the right of eminent domain. When any suit or proceeding shall have been brought in the exercise of such right for the taking of registered land, or any interest therein, or to test the validity of any such taking, or to ascertain and establish the amount of damage by reason of any such taking, it shall be the duty of both parties to the proceeding to see that a certified copy of the judgment or decree therein is duly filed and a memorial thereof entered upon the register; but in the case of the assessment of damages, no such memorial shall be entered by the registrar until such damages have been paid, in which event the register shall also show the payment of such damages; provided, however, that the deposit with the treasurer, as allowed by law, of such damages, shall be deemed a payment thereof, and in such case the treasurer shall forthwith file with the registrar a certificate of such deposit, and thereupon a memorial thereof shall be entered upon the register. Upon the filing of the certified copy of the order or decree of the court and the payment of damages, the registrar shall note on the register of title of the owners whose lands have been appropriated, a description of the land so appropriated, and shall register in the name of the person, corporation, or other body entitled thereto, the title of the land taken, and issue a certificate therefor.

§ 102. The registrar shall keep property indices, the pages of which shall be divided into columns, showing first, the section or subdivision; second, the range or block; third, the township or lot; fourth, any further description necessary to identify the land; fifth, the name of the registered owner; sixth, the volume; and seventh, the page of the register in which the lands are registered.

§ 103. He shall also keep name indices, the pages of which shall be divided into columns, showing in alphabetical order, first, the names of all registered owners and all other persons interested in or holding charges upon registered land; second, the nature of the interest; third, a brief description of the land; fourth, the volume; and fifth, the page of the register in which the lands are registered.

§ 104. An owner of an undivided interest in registered lands may bring an action for the partition thereof. A notice of such action shall, at the time of the commencement thereof, be filed with the registrar and a memorial entered by him upon the register. A certified copy of any judgment or decree rendered in pursuance of such action shall be filed with the registrar, who shall thereupon issue new certificates in accordance therewith.

§ 105. Whenever, under the provisions of this act, any interest in, or lien, encumbrance, or charge upon registered land, arises adversely to the registered owner without voluntary action by him, and not in pursuance of a judgment or decree of court, such registration shall not be conclusive of the regularity of any proceedings or instruments by means of which such interest, lien, encumbrance, or charge arose, or the validity of the same, and shall have no greater force and effect than would the recording, in case the land were not registered, of an instrument creating a similar interest, lien, encumbrance, or charge.

§ 106. In the case of fraud, any person defrauded shall have all rights and remedies that he would have had if the lands were not under the provisions of this act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

§ 107. In case of an appeal from any proceeding under this act, or from any judgment, order, or decree affecting registered lands, the clerk of the court in which the notice of appeal is filed shall forthwith notify the registrar thereof, and thereupon the registrar shall enter upon the register a memorial of such appeal.

§ 108. All fees collected by the registrar under the provisions of this act shall be accounted for, paid, disbursed, and disposed of by him in the same manner that fees collected by him as county recorder are now or may hereafter be by law accounted for, paid, disbursed and disposed of. Should there be a surplus in any year, such surplus shall be carried into the general fund, and be subject to appropriation for any purpose. In case such fees shall not amount to the sum required for the administration of this act, the deficiency shall be paid from any funds in the treasury not otherwise appropriated.

§ 109. All books, blanks, papers, and all things necessary for the purpose of carrying out the provisions of this act, shall be furnished by the board of supervisors, at the expense of the county.

§ 110. The attorney-general, state controller, and secretary of state shall prepare a uniform system of books, blanks, and forms for the use of the public officers required to perform duties under this act, and such forms, and none other, shall be used by such officers.

§ 111. Whoever fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any certificate of title or other instrument, or of any entry in the register or other book kept in the registrar's office, or of any erasure or alteration in any entry in any said book, or in any instrument authorized by this act, or knowingly defrauds or is privy to defrauding any person by means of a false or fraudulent instrument, certificate, statement, or affidavit affecting registered land, shall be guilty of a felony, and fined not exceeding five thousand dollars, or be imprisoned not exceeding five years nor less than one year, or either, or both, in the discretion of the court.

§ 112. Whoever (1) forges, or procures to be forged, or assists in forging the seal of the registrar, or the name, signature, or handwriting of any officer of the registry office in cases where such officer is expressly or impliedly authorized to affix his signature; or (2) fraudulently stamps, or procures to be stamped, or assists in stamping any document with any forged seal of said registrar; or (3) forges, or procures to be forged, or assists in forging the name, signature, or handwriting of any person whomsoever to any instrument which is expressly or impliedly authorized to be signed by such person; or (4) uses any document upon which any impression, or part of the impression, of any seal of said registrar has been forged, knowing the same to have been forged, or any document the signature to which has been forged, knowing the same to have been forged; or (5) swears falsely concerning any matter or procedure made and done in pursuance of this act, shall be guilty of a felony, and imprisoned not exceeding ten years, nor less than one year, or fined not exceeding five thousand dollars, or both fined and imprisoned, in the discretion of the court.

§ 113. No proceeding or conviction for any act hereby declared to be a misdemeanor or a felony shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act, or against his estate, or against the registrar, or upon his bond.

§ 114. First—The fees, in respect of applications and proceedings under them prior to registration, shall be the same as in actions in the superior court.

Second—There shall be paid to the registrar:

For issuing a certificate of title, including one duplicate thereof, one dollar and fifty cents.

For each additional duplicate, fifty cents.

For registering each transfer, including the issue and registration of the new certificate, one dollar and fifty cents.

For entry of each memorial on the register, including the indorsement upon the duplicate certificates, one dollar.

For the cancelation of each certificate, memorial, or charge, twenty-five cents.

For each certificate showing condition of register, one dollar and fifty cents.

For filing any instrument, or for a certified copy of the register, or of any instrument or writing on file in his office, the same fees allowed by law to recorders for like services.

§ 115. This act shall be construed liberally so far as may be necessary for the purpose of effecting its general intent, but does not adopt by implication the construction of any similar legislation of other jurisdictions which this act may to any extent have followed.

§ 116. This act shall take effect and be in force from and after the first day of July, eighteen hundred and ninety-seven.

A special commission was appointed to investigate the Torrens Land Transfer Act of Australia, Stats. 1893, 121, ch. CIV.

The foregoing act is the result of the commission's report.

"Land Transfers Ancient and Modern," article in 10 Va. Law Reg. 365. See 9 Va. Law Reg. 935.

"The Torrens System."—See articles in 8 American Lawyer 398, 466; 54 Cent. L. J. 282; 1 Mich. Law Rev. 444.

Same—"Its Practical Operation in Massachusetts," article in 54 Cent. L. J. 285.

The Illinois Torrens law for the registration of titles (Ill. Laws 1895, 82), providing for an examination by the recorder of deeds or registrar of titles of the facts in relation to the title to land, and the issuing of a certificate of ownership, held to constitute an unconstitutional delegation of judicial power, even though the effect of such certificate be simply to start the running of a statute of limitations.—People ex rel. Kern vs. Chase, 165 Ill. 527, 46 N. E. Rep. 454, 36 L. R. A. 105.

Minnesota Torrens Land Registration Act

(Gen. Laws 1901, 348, ch. CCXXXVII) has received construction in Reed vs. Siddall, 89 Minn. 417, (February 10, 1905) 102 N. W. Rep. 453, sub nom. Reed vs. Carlson, 95 N. W. Rep. 303 (construing § 28); Dewey vs. Kimball, 89 Minn. 454, 95 N. W. Rep. 317, 895, 96 Id. 704 (construction of § 20, providing how summons shall be served upon unknown defendants); National Bond and Security Co. vs. Daskam, 91 Minn. 81, 97 N. W. Rep. 458 (construing § 6).

Ohio Torrens Act (April 27, 1896), held to confer judicial authority on the county recorder in violation of the Ohio constitution, art. IV, § 1, by giving to him authority to determine the fact that a mortgage has been discharged, or that a lien has become inoperative, and to enter this fact on the records; and also to correct memorials made or issued by mistake, where the rights of bona fide purchasers or lienholders had not intervened.—State ex rel. Monnett vs. Guilbert, 56 Ohio St. 575, 60 Am. St. Rep. 756, 47 N. E. Rep. 551, 38 L. R. A. 519.

"Virginia Torrens System," article in 35 Am. L. Rev. 727.

TOW-PATHS.

To provide for the location of tow-paths along the banks of navigable streams.

(Stats. 1871-2, 940, ch. DCXXXII.)

§ 1. The board of supervisors of each county in the state may, when public convenience for the purpose of commerce requires it, cause to be located and opened a tow-path, not exceeding ten feet in width, along the bank or banks of any navigable stream within the county.

§ 2. In order to locate and open such tow-path, the same proceedings in regard to petition, viewers, etc., shall be taken as are now by law required to be taken in the respective counties of this state for the purpose of locating and opening public roads and highways.

§ 3. The owner or owners of any land over which a tow-path shall be located and opened shall not be deprived of the water frontage nor of the free use and enjoyment of any land so located, subject only to the right of the public to use the same for the purposes of commerce.

§ 4. It shall not be necessary to construct or maintain fences on either side of any tow-path so located, but the board of supervisors may make all neces-

sary rules and regulations for the government and management of tow-paths, and may provide for the erection of gates thereon and for the full and complete protection of the property through which the same passes.

§ 5. This act shall take effect from and after its passage.

TOWNSHIP OFFICERS.

See tit. Fees of Officers.

TOWN SITES—INCORPORATED TOWNS.

To authorize and direct the municipal authorities of the several cities and incorporated towns of this state to execute certain trusts in relation to the town lands granted to the incorporated cities and towns in this state, by the act of Congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven.

(Stats. 1867-8, 487, ch. CCCC1; amended 1871-2, 237, ch. CXCVII.)

§ 1. It shall be the duty of the board of trustees, or other corporate authorities, of any city or incorporated town in this state, to enter at the proper land office of the United States such quantity of land as the inhabitants of any incorporated city or town may be entitled to claim, in the aggregate, according to their population, in the manner required by the laws of the United States and the regulations prescribed by the secretary of the interior of the United States, and by order entered upon their minutes of proceedings, at a regular meeting, to authorize the presiding officer and clerk of such board or other corporate authority, attested by the seal of such corporation, to make and sign all necessary declaratory statements, certificates and affidavits, or other instruments requisite to carry into effect the intentions of this act and the intentions of the act of Congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said act of Congress.

§ 2. The corporate authorities of every city and incorporated town, situated upon the public lands of this state, shall within three months after date of receipt at the United States district land office of the approved plat of the township, embracing the lands upon which the town or city is situated, file in said land office an application in writing, describing the tract of land thus occupied, and thereafter make proof and payment for the tract in the manner required by law. [Amendment, Stats. 1871-2, 237.]

§ 3. The said corporate authorities shall, after the filing of their application, if not previously done, cause a survey to be made by some competent person, of the lands which the inhabitants of said city or town may be entitled to claim under the said act of Congress, located according to the legal subdivisions of the sections and by the section lines of the United States, and the same shall be distinctly marked by suitable monuments; such survey shall further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, cemeteries and commons, as the same exist and

have been heretofore dedicated in any manner to public use, and by measurement the precise boundaries and area of each and every lot or parcel of land and premises claimed by any person, corporation, or association within said city or town site shall be designated on the map, showing the name or names of the possessor, or occupants and claimants if other than the occupant of each particular lot and parcel of land; and in case of any disputed claim as to lots, lands, premises, or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines in different color from the body of the plat of such part of any premises so disputed or claimed adversely. A plat thereof shall be made in duplicate, on a scale of not less than eighty feet to one inch, which shall be duly certified under oath by the surveyor, one of which shall be filed with the county recorder of the county wherein the town is situated, and one shall be deposited with the city or town clerk. These plats shall be considered public records, and shall each be accompanied with a copy of the field-notes, and the county recorder shall make a record thereof in a book to be kept by him for that purpose. The said surveyor shall number the blocks as divided by the roads and streets opened at the time of making such survey, and shall number the several lots consecutively in each block, and all other parcels of land within said town or city surveyed as herein provided, which said numbers shall be a sufficient description of any parcel of land in said plats, field-notes, and records, and certified copies thereof shall be prima facie evidence of the contents and correctness thereof in all the courts of this state. [Amendment, Stats. 1871-2, 237.]

§ 4. Before proceeding to make such survey, at least ten days' notice thereof shall be given, by posting within the limits of such town site not less than five written or printed notices of the time when such survey shall commence, and by publication thereof in any newspaper or newspapers published in the city or town if there be one. The survey of said town lands shall be made to the best advantage and at the least expense to the holders and claimants thereof; and said corporate authorities are hereby authorized to receive bids for such surveying, and to let the same by contract to the lowest competent bidder.

§ 5. All streets, roads, lanes and alleys, public squares, cemeteries and commons, surveyed, marked and platted on the map of any town site, as prescribed and directed by the provisions of this act, shall be deemed and considered, and they are hereby declared to be, dedicated to public use by the filing of such town plat in the office of the county recorder, shall become the property of such town or city, and shall be subject to the control of the board of trustees or other municipal authority of such town or city.

§ 6. Each lot or parcel of said lands having thereon valuable improvements or buildings ordinarily used as dwellings or for business purposes, not exceeding one tenth of one acre in area, shall be rated and assessed by the said corporate authorities at the sum of one dollar; each lot or parcel of such lands exceeding one tenth and not exceeding one eighth of one acre in area shall be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one eighth of one acre and not exceeding one quarter of an acre shall be rated and assessed at the sum of two dollars; and each lot or parcel of such lands exceeding one quarter of an acre and not exceeding one

half of one acre in area shall be rated and assessed at the sum of two dollars and one half; and each lot or parcel of land so improved, exceeding one half acre in area, shall be assessed at the rate of two dollars and one half for each half an acre or fractional part over half an acre; and every lot or parcel of land inclosed which may not be otherwise improved, or uninclosed, claimed by any person, corporation or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where upon one parcel of land there shall be two or more separate buildings occupied or used ordinarily as dwellings, or for business purposes, each such building, for the purposes of this section, shall be considered as standing on a separate lot of land; but the whole of said premises may be conveyed in one deed; which moneys so assessed shall be paid in gold and silver coin of the United States, and shall be received by the clerk and be paid by him into the city or town treasury.

§ 7. Every person, company, corporation or association, claimant of any town lot or parcel of land within the limits of such town site, shall present to the corporate authorities, by filing the same with the clerk thereof, within six months after the plat shall have been filed in the office of the county recorder, his, her or their affidavit, verified in person or by duly authorized agent or attorney, in which shall be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof as against all other persons, to the best of his knowledge and belief, to which shall be attached a copy of so much of the plat of said town site as will fully exhibit the particular lot or parcel of land so claimed, with the abutments; and every such claimant, at the time of filing such affidavit, shall pay to such clerk such sum of money as said clerk shall thereon certify to be due for the assessment mentioned in section six of this act, together with the further sum of five dollars, in gold or silver coin of the United States, to be appropriated to the payment of the expenses incurred in carrying out the provisions of this act; and the said clerks shall thereupon give to such claimant a certificate, attested by the corporate seal, containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The corporate authorities of every such city or town shall procure a bound book for each, wherein the said clerk shall make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of claimant or claimants in full, date of issue and description of lot or lots claimed.

§ 8. If it shall be found that the amounts hereinbefore specified as assessments and fees for cost and expenses shall prove to be insufficient to cover and defray all the necessary expenses, the corporate authorities of every such city or town shall be and they are hereby authorized and empowered to estimate the deficiency and to assess such deficiency pro rata upon all the lots and parcels of land or lands in such town and to declare the same upon the basis set down in section six of this act; which additional amount, if any, may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance hereinafter provided for, shall be issued.

§ 9. At the expiration of six months after the issuance of the certificate mentioned in the preceding section, if there shall have been no adverse claim filed in the mean time, the said board of trustees or other corporate authority shall execute and deliver to such claimant, or to his, her or their heirs, administrators or assigns, a good and sufficient deed of the premises described in the application of the claimant originally filed, which said deed shall be signed and acknowledged by the president or other presiding officer of the municipal board of officers, and clerk, and shall be attested by the corporate seal of such city or town. No conveyance of any such lands made as in this act provided shall be deemed to conclude the rights of third persons; but such third persons may have their action in the premises, to determine alleged interest in such lands against such grantee, his heirs or assigns, to which they may deem themselves entitled either in law or equity; provided, that no action for the recovery of the possession of such premises or any portion thereof shall be maintained in any court against the grantee named therein or against his, her or their assigns, unless such action shall be commenced within two years after such deed shall have been filed for record in the office of the county recorder of the county where such lands are situate; and provided, that nothing herein shall be so construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate, when such action is barred by law at the time of the passage of this act; and provided further, that whenever mining claims shall have been located prior to the passage of this act, and where the same shall be prior in location to the claim of any occupant for other purposes, such mining rights, according to the metes and bounds so located and claimed, shall not in any manner be affected by the provisions of this act; nor shall any sale be made, nor any title be conveyed by reason of any sale or pretended sale, of such lands so claimed for mining purposes until after the occupancy of such mining claims shall have been abandoned by the holders thereof.

§ 10. In all cases of adverse claims or disputes arising out of conflicting claims to lands or boundary lines, the adverse claimants may submit the decision thereof to the corporate authorities of such city or town by an agreement in writing specifying particularly the subject-matter in dispute, and may agree that their decision shall be final. The municipal board shall hear the proofs and shall order a deed to be executed in accordance with the facts; but in all other cases of adverse claim the party out of possession shall commence his action in a court of competent jurisdiction within six months after the filing of the town plat in the office of the county recorder. In case such action be commenced the plaintiff shall serve a notice *lis pendens* upon the president of the municipal board, who shall thereupon stay all proceedings in the matter of granting any certificate or deed until the final decision of such suit; and upon presentation of a certified copy of the final decree of such court in such action, the said board shall execute and deliver a deed of such premises, in accordance with the decree. In case no such action be commenced within the time herein prescribed, the said board shall deliver a deed to the party in possession, as provided in section nine of this act.

§ 11. The said board shall give public notice by advertisement for four weeks in any newspaper or newspapers published in the said city or town, if

any there be—and if there be no newspaper published in said city or town, then by publication in some newspaper having the most general circulation in such city or town—and not less than five written or printed notices posted within the limits of such town site, that the plat thereof has been filed in the recorder's office. And if any person, company, association or other claimant of lands in such town shall fail, neglect or refuse to make application to the said board for a deed of conveyance to the lands so claimed, and to pay the sums of money specified in this act, within six months after the filing of said plat, the clerk of said board shall enter on his book the names of all such persons, with a description of the property or premises, and shall certify the same as delinquent for the amount of assessments certified to by such clerk as due under section six of this act; and at the expiration of thirty days after making such entries, if such application be not made and such assessment be not paid, the said board shall proceed to advertise all such lots and parcels of land for sale, in the same manner as real estate is required to be advertised under execution.

§ 12. At the time of sale mentioned in said advertisement, the marshal of said city or town shall proceed to sell all such parcels of land so remaining delinquent, by public auction, to the highest bidder for cash, at some public place within the limits of said town site; and he shall give to the purchaser at such sale a certificate of his purchase, setting forth therein the description of the premises sold, the amount paid, and that the same is subject to redemption, as prescribed in the next section; provided, that no sale shall be made for less than the whole amount of assessments and the costs of making the sale, which costs shall be divided pro rata among the several parcels offered for sale.

§ 13. At any time within six months after such sale the original claimant shall be entitled to redeem such premises, by paying to the purchaser, or to the clerk of the said board for the purchaser, double the whole amount of the purchase money, in gold and silver coin; but in case no redemption be made, the purchaser, his heirs or assigns, shall be entitled to demand and receive from the said board a deed of such premises, which deed shall be absolute as against the parties delinquent, and shall entitle the grantee, his heirs or assigns, to a writ of assistance from the district court having jurisdiction of the premises.

§ 14. If there shall be any unoccupied or vacant unclaimed lands within the limits of such town site, the said board shall cause the same to be laid out and surveyed into suitable blocks and lots, and shall reserve such portions as may be deemed necessary for public squares and school-house lots, and shall cause all necessary roads, streets, lanes and alleys to be laid out through the same and dedicated to public use; and the said board may sell the same in suitable parcels to possessors of adjoining lands, or to other citizens of said town, at a price not less than five dollars per acre or fraction of an acre in gold coin; and in case two or more claimants apply for the same tract, or parcel of the same tract, they shall sell the same by auction to the highest bidder. And if any such lands remain unsold at the end of six months after the filing of the town plat, the said board shall have power and authority to sell such vacant

lands at public or private sale in such manner and on such terms as they may deem advisable for the best interests of the town, and shall give deeds therefor to the several purchasers.

§ 15. All school lots and parcels of land reserved for school purposes shall be conveyed to the school trustees of the school district in which such town is situated, without cost or charge of any kind whatever.

§ 16. If any person shall falsely make oath to any affidavit required to be made by this act, he or she shall be deemed guilty of perjury and upon conviction shall be punished accordingly.

§ 17. If any guardian or administrator, or tenant, joint tenant, tenant in common, coparcener or partner in the possession of any of the lands mentioned in this act, shall fraudulently procure, or cause, permit, suffer or allow any deed to be obtained therefor, for his or her sole benefit, or by his or her neglect allow the same to be done by others, such deed shall be null and void and shall convey no title; and an action may be brought by any party injured or aggrieved thereby, or claiming any interest in such premises, for the recovery of such interest, at any time within five years after the discovery of such fraud.

§ 18. All moneys required to be paid by any person under this act shall be paid in gold and silver coin; except that for the payment of the price of the land to the government of the United States, the municipal boards shall be authorized and required to purchase, at the market price, so much in legal tender notes as may be requisite therefor.

§ 19. All expenses necessarily incurred or contracted by the carrying into effect of the provisions of this act shall become a charge upon the city or town treasury of each particular city or town ordering the work to be done, to be paid out of the treasury, upon order of the corporate authorities; and all moneys paid for lands or to defray the expenses of carrying into effect the provisions of this act shall be paid into the city or town treasury by the officers receiving the same, and shall constitute a special fund, from which shall be paid all expenses, and the surplus, if any there be, shall be paid into the general fund.

§ 20. No mere informality, failure or omission on the part of any of the persons or officers named in this act shall invalidate the acts of such person or officer; but every certificate or deed granted to any person pursuant to the provisions of this act shall be deemed, taken and considered as conclusive evidence that all preliminary proceedings in relation thereto have been correctly taken and performed; provided, that the city of Petaluma is hereby excepted and exempted from the provisions of this act.

§ 21. This act shall take effect and be in force from and after its passage.

Special act relating to Mendocino County Stats. 1860, 287, ch. CCCVIII.

TOWN SITES—PUBLIC LANDS.

Amendatory of and supplemental to an act to authorize and direct the county judges of the several counties of this state to execute certain trusts in relation to the town lands granted to the unincorporated towns in this state by the act of Congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven.

(Stats. 1867, 692; amended 1873-4, 37; and entirely superseded by 1885, 115, ch. CXXXII.)

§ 1. It shall be the duty of each of the persons who may be acting as a superior judge and judge of the superior court of any county in this state to enter at the proper land office of the United States such quantity of land as the inhabitants of any unincorporated town, situated in the county of such superior judge, may be entitled to claim in the aggregate, according to their [its] population, in the manner required by the laws of the United States, and the regulations prescribed by the secretary of the interior of the United States, and to make and sign all necessary declaratory statements, certificates, and affidavits, or other instruments requisite to carry into effect the intentions of this act, and the intention of the act of Congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said act of Congress. [Amendment, Stats. 1885, 115.]

§ 2. The superior judge of any county in this state, whenever he shall be so requested by a petition signed by not less than five residents, householders in any unincorporated town, whose names appear upon the assessment roll for the year preceeding such application, which petition shall set forth the existence, name, and locality of such town; whether such town is situated on surveyed or unsurveyed lands, and if on surveyed lands the quarter-sections or lesser subdivision covered thereby shall be stated; the estimated number of its inhabitants; the number of separate lots or parcels of land within such town site, and the amount of land to which they are entitled under said act of Congress, shall estimate the cost of entering such land, and of the survey and recording of the same, and shall indorse such estimate upon said petition; and upon receiving from any of the parties interested the amount of money mentioned in such estimate, the said superior judge may, if he shall deem it necessary, cause an enumeration of the inhabitants of such town to be made by some competent person, who shall be appointed for that purpose by such superior judge; and such enumeration shall be returned by the person so making the same, exhibiting therein names of all the heads of families and occupants of lots, lands, or premises within such town site, alphabetically arranged, verified by his oath, to the superior judge of the county. [Amendment, Stats. 1885, 115.]

§ 3. The said superior judge shall thereupon cause a survey to be made, by some competent person, of the lands which the inhabitants of said town may be entitled to claim under the said act of Congress, located according to the legal subdivision of the sections, and by the section lines of the United States, and the same shall be distinctly marked by suitable monuments. Such surveys shall

further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, cemeteries, and commons, as the same exist, and have been heretofore dedicated in any manner to public use; and by measurement, the precise boundaries and area of each and every lot or parcel of land and premises claimed by any person, corporation, or association, within said town site, shall be designated on the plat, showing the name or names of the possessor or occupant, and claimant, if other than the occupant, of each particular lot and parcel of land; and in case of any disputed claim as to lots, lands, premises, or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines (in different color from the body of the plat) of such part of any premises so disputed or claimed adversely. A plat thereof shall be made in triplicate, on a scale of not less than eighty feet to one inch, which shall be duly certified under oath by the surveyor, one of which shall be filed with the county recorder of the county wherein the town is situated, one shall be deposited with the superior judge, and one shall be deposited with the justice of the peace resident in or nearest to such town. These plats shall be considered public records, shall each be accompanied with a copy of the field-notes, and the county recorder shall make a record thereof in a book to be kept by him for that purpose. The said surveyor shall number the blocks, as divided by the roads and streets opened at the time of making such survey, and shall number the several lots consecutively in each block, and all other parcels of land within said town site, surveyed as herein provided, which said numbers shall be a sufficient description of any parcel of land in said plat, when mentioned by reference to such town plat; and such plats, field-notes, and records, and certified copies thereof, shall be prima facie evidence of the contents and correctness thereof in all the courts of this state. [Amendment, Stats. 1885, 115.]

§ 4. Before proceeding to make such survey, at least ten days' notice shall be given by the superior judge, by posting within the limits of such town site not less than five written or printed notices of the time when such survey shall commence, and by publication thereof in a newspaper published in such town, if one there be. The survey of said town lands shall be made to the best advantage, and at the least expense to the holders and claimants thereof; and the said superior judge is hereby authorized to receive bids for such surveying, and to let the same by contract to the lowest competent bidder. [Amendment, Stats. 1885, 115.]

§ 5. All streets, roads, lanes, and alleys, public squares, cemeteries, and commons, surveyed, marked, and platted, on the map of any town site, as prescribed and directed by the provisions of this act, shall be deemed and considered, and they are hereby declared to be dedicated to public use, by the filing of such town plat in the office of the county recorder, and shall be inalienable, unless by special order of the board of supervisors of the county, so long as such town shall remain unincorporated; and if such town shall at any time hereafter become incorporated, then the same shall become the property of such town or city, and shall be under the care and subject to the control of the board of trustees, or other municipal authority of such town or city. [Amendment, Stats. 1885, 115.]

§ 6. Each lot or parcel of said land having thereon valuable improvements, or buildings ordinarily used as dwellings or for business purposes, not exceeding one tenth of one acre in area, shall be rated and assessed by the said superior

judge at the sum of one dollar; each lot or parcel of such lands exceeding one tenth and not exceeding one eighth of one acre in area, shall be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one eighth of one acre and not exceeding one quarter of an acre in area, shall be rated and assessed at the sum of two dollars; and each lot and parcel of such lands exceeding one quarter of an acre and not exceeding one half of one acre in area, shall be rated and assessed at the sum of two dollars and one half; and each lot or parcel of land so improved exceeding one half an acre in area, shall be assessed at the rate of two dollars and one half for each half an acre, or fractional part over half an acre; and every lot or parcel of land inclosed, which may not be otherwise improved, or uninclosed, claimed by any persons, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where, upon one parcel of land, there shall be two or more separate buildings, occupied or used ordinarily as dwellings, or for business purposes, each such building, for the purposes of this section, shall be considered as standing on a separate lot of land, but the whole of such premises may be conveyed in one deed; which moneys so assessed shall be paid in gold and silver coin of the United States, and shall constitute a fund from which shall be reimbursed or paid the moneys necessary to pay the government of the United States for said town lands, and interest thereon, if such moneys shall have been loaned or advanced for the purpose and expenses of their location, entry, and purchase, and the costs and expenses attendant upon the making of such survey and recording thereof. [Amendment, Stats. 1885, 115.]

§ 7. Any sum of money remaining, after defraying all the necessary expenses of location, entry, surveying, platting, and recording of lands, and the expenses of the superior judge, hereinafter mentioned, shall be deposited in the county treasury, to the credit of the fund of each particular town, and shall be kept separate by the county treasurer, to be paid out by him only on the written order of such superior judge, until after the expiration of the time for a final settlement of the affairs of such town lands, as hereinafter provided, at which time any and all balances of moneys so remaining to the credit of each town shall be transferred by such county treasurer to the school fund of the particular school district in which said town shall be situated. [Amendment, Stats. 1885, 115.]

§ 8. Every person, corporation, or association, claimant of any town lot or parcel of land within the limits of such town site, shall present to the superior judge, within six months after the plat shall have been filed in the office of the county recorder, his, her, or their affidavit verified in person, or by duly authorized agent, or attorney, in which shall be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof as against all other persons, to the best of his knowledge and belief, to which shall be attached a copy of so much of the plat of said town site as will fully exhibit the particular lot or parcel of land so claimed, with the abutments; and every such claimant, at the time of filing such affidavit, shall pay to such superior judge such sum of money as such judge shall thereon certify to be due for the assessment mentioned in section six of this act, together with the further sum of five dollars, in the gold or silver coin of

the United States, to be appropriated to the payment of the expenses incurred in carrying out the provisions of this act; and the superior judge shall thereupon give to such claimant a certificate containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The superior judge shall procure a bound book for each town in his county, wherein he shall make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants, in full, date of issue, and description of lot or lots claimed. [Amendment, Stats. 1885, 115.]

§ 9. If it shall be found that the amounts, hereinbefore specified as assessments and fees for costs and expenses, shall prove to be insufficient to cover and defray all the necessary expenses, the superior judge shall be and he is hereby empowered to estimate the deficiency, and to assess such deficiency pro rata upon all the lots and parcels of lands in such town, and to declare the same upon the basis set down in section six of this act, which additional amount, if any may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance hereinafter provided for, shall be issued. [Amendment, Stats. 1885, 115.]

§ 10. At the expiration of six months after the issuance of the certificate mentioned in the preceding section, if there shall have been no adverse claim filed in the mean time, the said judge shall make, execute, acknowledge, and deliver to each claimant, or to his, her, or their heirs, administrators, or assigns, a good and sufficient deed of the premises described in the application of the claimant originally filed. No conveyance of any such lands, made as in this act provided, shall be deemed to conclude the rights of third persons; but such third persons may have their actions in the premises to determine alleged interest in such lands against such grantee, his heirs, or assigns, to which they may deem themselves entitled either in law or equity; provided, that no action for the recovery of the possession of such premises, or any portion thereof, shall be maintained in any court against the grantee named therein, or against his, her, or their assigns, unless such action shall be commenced within two years after such deeds shall have been filed for record in the office of the county recorder of the county where such lands are situated; and, provided, that nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate when such action is barred by law at the time of the passage of this act; provided further, that whenever mining claims shall have been located and held bona fide for mining purposes, such mining rights, according to the metes and bounds of [lands] so located and claimed, shall not in any manner be affected by the provisions of this act; nor shall any sale be made, nor any title be conveyed, by reason of any sale or pretended sale of such lands so claimed for mining purposes, until after the occupancy of such mining claims shall have been abandoned by the holders thereof. [Amendment, Stats. 1885, 115.]

§ 11. In all cases of adverse claims, or disputes arising out of conflicting claims to lands or boundary lines, the adverse claimants may submit the decision thereof to the superior judge by an agreement in writing, specifying particularly the subject-matter in dispute, and may agree that his decision shall be final; in which case the said judge may hear the proofs, and shall execute a deed

in accordance therewith; but in all other cases of adverse claim the party out of possession shall commence his action in a court of competent jurisdiction, within six months after the filing of the town plat in the office of the county recorder. In case such action be commenced, the plaintiff shall serve a notice, *lis pendens*, upon the superior judge, who shall thereupon stay all proceedings in the matter of granting any certificate or deed until the final decision of such suit; and upon presentation of a certified copy of the final decree of such court in such action, the superior judge shall execute and deliver a deed of such premises in accordance with the decree. In case no such action be commenced within the time herein prescribed, the superior judge shall deliver his deed to the party in possession, as provided in section ten of this act. [Amendment, Stats. 1885, 115.]

§ 12. The superior judge shall give public notice by advertisement for four weeks in some newspaper published in the county, if one there be, and if there be no newspaper published in said county, then by not less than five written or printed notices posted within the limits of such town site, that the plat thereof has been filed in the recorder's office; and if any person, company, or association, or other claimants of lands in such town, shall fail, neglect, or refuse to make application to the said superior judge for a deed of conveyance of the lands so claimed, and to pay the sum of money specified in this act, within six months after the filing of said plat, the superior judge shall enter on his book the names of all such persons, with a description of the property or premises, and shall certify the same as delinquent for the amount of assessments certified to by such judge as due under section six of this act; and at the expiration of thirty days after making such entries, if such application be not made and such assessment be not paid, the said judge shall proceed to advertise all such lots and parcels of land for sale in the same manner as real estate is required to be advertised under execution. [Amendment, Stats. 1885, 115.]

§ 13. At the time of sale mentioned in said advertisement, said judge shall proceed to sell all such parcels of land so remaining delinquent, by public auction, to the highest bidder for cash, at some public place within the limits of said town site; and he shall give to the purchaser at such sale a certificate of his purchase, setting forth therein a description of the premises sold, the amount paid, and that the same is subject to redemption, as prescribed in the next section; provided, that no sale shall be made for less than the whole amount of assessments and the cost of making the sale, which costs shall be divided *pro rata* among the several parcels offered for sale. [Amendment, Stats. 1885, 115.]

§ 14. At any time within six months after such sale the original claimant shall be entitled to redeem such premises, by paying to the purchaser, or to the superior judge for purchaser, double the whole amount of the purchase money, in gold and silver coin; but, in case no redemption be made, the purchaser, his heirs, or assigns, shall be entitled to demand and receive from the superior judge a deed of such premises, which deed shall be absolute as against the parties delinquent, and shall entitle the grantee, his heirs, or assigns, to a writ of assistance from the superior court having jurisdiction of the premises. [Amendment, Stats. 1885, 115.]

§ 15. If there shall be any unoccupied or vacant unclaimed lands within the limits of such town site, the said judge shall cause the same to be laid out and

surveyed into suitable blocks and lots, and shall reserve such portions as shall be deemed necessary for public squares and school-house lots; and shall cause all necessary roads, streets, lanes, and alleys to be laid out through the same and dedicated to public use; and the said judge may sell the same in suitable parcels to possessors of adjoining lands, or to other citizens of said town, at a price not less than one dollar per acre, or fraction of an acre, in gold coin; and in case two or more claimants apply for the same tract, or parcel of the same tract, he shall sell the same by auction to the highest bidder; and if any such lands remain unsold at the end of six months after the filing of the town plat, the said judge shall proceed in the same manner and at the same time that any delinquent lands shall be sold, to sell such vacant lands to the highest bidder for cash, and shall give deeds therefor to the several purchasers. [Amendment, Stats. 1885, 115.]

§ 16. All school lots and parcels of land reserved for school purposes, as aforesaid, by order of the superior judge, shall be conveyed to the school trustees of the school district in which such town is situate, without cost or charge of any kind whatever. [Amendment, Stats. 1885, 115.]

§ 17. If any person shall falsely make oath to any affidavit required to be made by this act, he or she shall be deemed guilty of perjury, and, upon conviction, shall be punished accordingly. [Amendment, Stats. 1885, 115.]

§ 18. If any guardian or administrator, or tenant, joint tenant, tenant in common, coparcener, or partner in the possession, of any of the lands mentioned in this act, shall fraudulently procure, or cause, permit, suffer, or allow any deed to be obtained therefor, for his or her sole benefit, or by his or her neglect allow the same to be done by others, such deed shall be null and void, and shall convey no title, and an action may be brought by any party injured or aggrieved thereby or claiming any interest in such premises, for the recovery of such interest, at any time within five years after the discovery of such fraud. [Amendment, Stats. 1885, 115.]

§ 19. In case a vacancy shall occur from any cause in the office of superior judge during the pendency of any of the proceedings to be taken under this act, upon the election or appointment of a successor, it shall be the duty of the county clerk to make out a certificate, under seal, showing the facts and name of such successor, and file the same with the county recorder, who shall record such certificate in a book of deeds, and shall attach the original to the town plat book in his office. [Amendment, Stats. 1885, 115.]

§ 20. For services performed under this act, the superior judge shall be entitled to receive, out of the moneys provided for, to be paid into his hands, the sum of one dollar per mile for all travel necessarily performed by him on such duty; for every deed executed by him, the sum of five dollars, as provided in section eight of this act, which shall include the acknowledgment and revenue stamp thereon required; and for every certificate issued by him, the sum of fifty cents. [Amendment, Stats. 1885, 115.]

§ 21. All moneys required to be paid by any person under this act, shall be paid in gold and silver coin, except that for the payment of the price of the land to the government of the United States, the superior judge shall be authorized and requested to purchase, at the market price, so much in legal tender notes as may be requisite therefor. [Amendment, Stats. 1885, 115.]

§ 22. Every superior judge, when fulfilling the duties imposed upon him by the act of Congress aforesaid, and by this act, shall keep a correct account of all moneys received and paid out by him. He shall deposit all surplus moneys with the county treasurer of his county, and at the end of one year from the time when the town plat of any town shall be filed in the county recorder's office he shall settle up all the affairs pertaining to said town, and shall pay over to the county treasurer all moneys belonging to said town, for the use and benefit of the school district in which said town may be situate; provided, that if any claims to lands in such town shall be the subject of litigation, the same shall be finally settled by such superior judge, whenever the final decree of court shall be served upon him. [Amendment, Stats. 1885, 115.]

§ 23. Whenever the affairs of any such town shall be finally settled and disposed of by such superior judge, he shall deposit all books and papers relating thereto, in the superior court of his county, to be thereafter kept in the custody of the county clerk as public records, subject to the inspection of any citizen. (Amendment, Stats. 1885, 115.)

§ 24. No mere informality, failure, or omission, on the part of any of the persons or officers named in this act, shall invalidate the acts of such person or officer, but every certificate or deed granted to any person pursuant to the provisions of this act, shall be deemed, taken, and considered as conclusive evidence that all preliminary proceedings in relation thereto have been correctly taken and performed. [Amendment, Stats. 1885, 115.]

§ 25. This act shall take effect and be in force from and after its passage; provided, that the towns of Shasta and Red Bluff shall be and are hereby excepted and exempted from the operation of its provisions. [Amendment, Stats. 1885, 115.]

Biddick vs. Kobler, 110 Cal. 191, 194, 42 Pac. Rep. 578; County Amador vs. Gilbert, 133 Cal. 51, 52, 65 Pac. Rep. 130.

See next following statute, and tit. **Municipal Corporations.**

TRADE-MARKS—BOTTLES.

To protect the owners of bottles, boxes, siphons, and kegs used in the sale of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, beer, white beer, or other beverages.

(Stats. 1891, 217, ch. CLIV; amended 1903, 83, ch. LXXV.)

§ 1. Any and all persons engaged in manufacturing, bottling, or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages in bottles, siphons, or kegs, with his, her, its, or their name or names, or other marks or devices branded, stamped, engraved, etched, and blown, impressed, or otherwise produced upon such bottles, siphons, or kegs, or the boxes used by him, her, it, or them, may file in the office of the clerk of the county in which his, her, its, or their principal place of business is situated, and also in the office of the secretary of state, a description of the name or names, marks or devices, so used by him, her, it, or them, respectively, and cause such description to be printed once in each week for three weeks successively, in a newspaper published in the county in which said notice may have been filed as aforesaid.

§ 2. It is hereby declared to be unlawful for any person or persons, corporation or corporations, to fill with soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or with medicine compounds, or mixtures, any bottle, box, siphon, or keg, so marked or distinguished, as aforesaid, with or by any name, mark, or device, of which a description shall have been filed and published, as provided in section one of this act, or deface, erase, obliterate, cover up, or otherwise remove or conceal any such name, mark, or device thereon, or to sell, buy, give, take, or otherwise dispose of or traffic in the same, without the written consent of, or unless the same shall have been purchased from the person or persons, corporation or corporations, whose mark or device shall be or shall have been in or upon the bottle, box, siphon, or keg so filled, trafficked in, used, or handled as aforesaid. Any person or persons or corporation offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished for the first offense by imprisonment not less than ten days nor more than six months, or by a fine of fifty cents for each and every such bottle, box, siphon, or keg so filled, sold, used, disposed of, bought, or trafficked in, or by both such fine and imprisonment; and for each subsequent offense by imprisonment not less than twenty days nor more than one year, or by a fine of not less than one dollar nor more than five dollars, for each and every bottle, box, siphon, and keg so filled, sold, used, disposed of, bought or trafficked in, or by both such fine and imprisonment, in the discretion of the magistrate before whom the offense shall be tried.

§ 3. The use by any person other than the person or persons, corporation or corporations, whose device, name or mark shall be or shall have been upon the same, without such written consent or purchase, as aforesaid, of any such mark or distinguished bottle, box, siphon, or keg, a description of the name, mark, or device whereon shall have been filed and published, as herein provided, for the sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or any article of merchandise, medicines, compounds, or preparations, or for the furnishing of such or similar beverages to customers, or the buying, selling, using, disposing of, or trafficking in of any such bottles, boxes, siphons, or kegs, by any person other than said persons or corporations having a name, mark, or device thereon, or such owner without such written consent, or the having by any junk dealer, or dealer in second-hand articles, possession of any such bottles, boxes, siphons, or kegs, a description of the marks, names, or devices wherein shall have been so filed and published as aforesaid, without such written consent, shall and is hereby declared to be presumptive evidence of the said unlawful use, purchase, or traffic in of such bottles, boxes, siphons, or kegs.

§ 4. Whenever any person, persons, or corporations, mentioned in section one of this act, or his, her, its, or their agent, shall make oath before any magistrate that he, she, or it has reason to believe, and does believe, that any of his, her, or their bottles, boxes, siphons or kegs, a description of the names, marks, or devices whereon has been so filed and published, as aforesaid, are being unlawfully used or filled, or had by any person or corporation manufacturing or selling soda, mineral, or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, and other beverages, or that any junk dealer,

or dealer in second-hand articles, vendor of bottles, or any other person or corporation, has any such bottles, boxes, siphons, or kegs, in his, her, or its possession, or secreted in any place, the said magistrate must thereupon issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession such bottles, boxes, siphons, or kegs may be found, and then inquire into the circumstances of such possession; and if said magistrate finds that such person has been guilty of a violation of section two of this act, he must impose the punishment therein prescribed, and he shall also award possession of the property taken upon such search warrant to the owner thereof.

§ 5. The requiring, taking or accepting of any deposit for any purpose, upon any bottle, box, siphon, or keg shall not be deemed or constitute a sale of such property, either optional or otherwise, in any proceeding under this act. [Amendment, Stats. 1903, 83.]

§ 6. Any person or persons, corporation or corporations, that has or have heretofore filed in the offices mentioned in section one of this act a description of the name or names, marks or devices, upon his, her, their, or its property therein mentioned, and has caused the same to be published according to the laws existing at the time of such filing and publication, shall not be required to again file and publish such description to be entitled to the benefits of this act; and any person or persons, corporation or corporations, having complied with the provisions of this act may as a part of the sale, assignment or transfer of all his, her, their or its said bottles, boxes, siphons, or kegs, used as aforesaid, with his, her, their or its name or names or other marks or devices, branded, stamped, engraved, etched, and blown, impressed or otherwise produced upon such bottles, boxes, siphons and kegs, to any other person or persons, corporation or corporations, engaged in manufacturing, bottling, or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages, sell, assign, and transfer the sole and exclusive right of using said name or names, marks and devices in said business. And in the event of such sale, transfer or assignment as aforesaid, or in the event of the transfer by operation of law or by sale under order of any court of the entire business of such person or persons, corporation or corporations, or of the entire stock of bottles, boxes, siphons, or kegs belonging to them, him, her or it, to any person or persons, corporation or corporations, engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages, such person or persons, corporation or corporations, shall not be again required to file and publish a description of said name or names, marks or devices, hereunder, but shall be entitled to all the benefits of this act immediately upon acquiring such bottles, boxes, siphons or kegs or such business as aforesaid. [Amendment, Stats. 1903, 83.]

§ 7. All acts and parts of acts inconsistent herewith are, for the purposes of this act, hereby repealed.

For full discussion of law of trade-marks, and exhaustive collection of authorities, see **KERR'S CYC. CIVIL CODE** § 991 and note.

TRADING STAMPS—CHANCE PRIZE.

Making it a misdemeanor to sell or exchange property under the representation, advertisement, notice or inducement that an unidentified, unknown, unselected, or chance prize, premium or premium gift, or that a stamp, trading stamp, coupon or other like device entitling the holder to receive such a prize, premium or premium gift, or that the redemption of such a stamp, trading stamp, coupon or other like device so given is to be part of the transaction, or to sell or exchange any trading stamp, stamp, coupon or other like device to aid such sale or exchange, as aforesaid, and providing a penalty therefor.

(Stats. 1905, 67, ch. LXIX.)

§ 1. Whoever sells or exchanges any property or offers or attempts so to do upon a representation advertisement notice or inducement that anything unidentified by or unselected by the purchaser at or before the time of the sale or exchange or upon a representation advertisement notice or inducement that anything whose precise nature is not so known to the purchaser at the time of the sale or exchange as to be completely identified beyond the necessity of any further or other selection or upon a representation notice advertisement or inducement that any property whose selection will depend upon chance or hazard in any manner whatsoever is or is to be delivered or received or is in any way connected with or is a part of the transaction as a prize, premium or premium gift; or whoever sells or exchanges any property or offers or attempts so to do upon a representation advertisement notice or inducement that a stamp, trading stamp, coupon or other device which entitles the purchaser to demand or receive either from the vendor or from any other person company association or corporation any other property unselected by or unidentified by the purchaser at or before the time of the said sale or exchange, or which entitles the purchaser to demand or receive either from the vendor or from any other person corporation association or company anything whose precise nature is not so known to the purchaser at the time of the said sale or exchange as to be completely identified beyond the necessity of any further or other selection, or which entitles the purchaser to receive or demand either from the vendor or from any other person, corporation association or company any property whose selection will depend upon chance or hazard in any manner whatsoever, is to be delivered or received or is in any way connected with or is a part of the transaction as a prize, premium or premium gift; or whoever sells or exchanges any trading stamp, stamp, coupon or other like device upon a contract to enable the purchaser to sell or exchange property, or attempt so to do, upon any representation, advertisement, notice or inducement of any kind hereinbefore mentioned; or whoever delivers any goods wares or merchandise upon the presentation of any such stamp coupon or other like device so given or caused to be given shall for each offense be guilty of a misdemeanor and be punishable by a fine of not less than twenty dollars or more than five hundred dollars, or imprisonment in a county jail for not less than ten days nor more than six months, or by both; provided, however, that the provisions of this act shall not apply or extend in any manner to the redemption of any such stamp, trading stamp, coupon or other like device that may have been issued as a premium, prize or premium gift prior to the time this act takes

effect; and provided further that the provisions of this act shall not apply or extend to any sale or exchange of articles in bulk, heap or mass, or a part or portion thereof, which sale or exchange is not made, effected or induced by or upon any representation, advertisement, notice or inducement of any kind hereinbefore specified.

TRADING STAMPS.

As constituting gift enterprise, see 65 L. R. A. 167.

Imposing license tax on all merchants using.—47 L. R. A. 205.

Oppressive license for use of by merchants.—47 L. R. A. 205.

Prohibiting seller of article from giving to purchaser.—48 L. R. A. 775.

Validity of business of dealing in; statute prohibiting business of; business not gift enterprise or lottery.—Brief 65 L. R. A. 169.

TRAINING SHIP.

To establish and maintain a training ship in the city and county of San Francisco.

(Stats. 1875-6, 54, ch. LXXIX; amended 1877-8, 233, ch. CLXXXVIII.)

The last appropriation by the state for this purpose appears to be in the above cited Stats. of 1877-8, and that was \$25,000, and a like sum was directed to be paid from

the treasury of the city and county of San Francisco, but there appears to have been no repeal of the statute.

TRANSPORTATION.

See tit. **Commissioner of Transportation.**

TREASURER—STATE.

See tit. **Board of Examiners.**

TREES, SEEDS, PLANTS, VINES—NAMING.

To provide for the proper naming of trees, seeds, plants, and vines, sold, offered, or exposed for sale in this state and providing a penalty for the violation of this act.

(Stats. 1905, 44, ch. L.)

§ 1. All trees, seeds, plants and vines, sold, offered or exposed for sale in the state of California shall be properly named as to variety and kind, and any person knowingly selling, trading, or exchanging, or offering or exposing for sale, any trees, seeds, plants, or vines falsely named as to variety and kind shall be guilty of a misdemeanor, and shall be liable to a fine of not less than ten dollars, nor more than three hundred dollars.

TREES AND HEDGES—STREETS.

To provide for the planting, maintenance, and care of shade trees upon streets, lanes, alleys, courts, and places within municipalities, and of hedges upon the lines thereof; also, for the eradication of certain weeds within city limits.

(Stats. 1893, 153, ch. CXL.)

§ 1. All streets, lanes, alleys, places, or courts in the municipalities of this state now open or dedicated, or which may hereafter be opened or dedicated, to public use, whose grade has been officially established, and which have been actually graded in conformity therewith, may be planted with shade trees, along

the edges of the sidewalks thereof, by order of the city council, which shall have power, also, to provide for the maintenance and care of the same; and the city council shall have power to prescribe the height, thickness, and manner of trimming of all hedges set out, or that shall be hereafter set out, along the line of any street, lane, alley, place, or court dedicated to public use, whether graded or not, and to compel compliance with its ordinances in the premises by the owners or occupants of the lots fronting thereon. The powers hereby conferred upon city councils shall be exercised in the manner and under the proceedings hereinafter described.

§ 2. The city council of any municipality in the state may, at its discretion, pass a resolution of intention to plant, or cause to be planted, with shade trees, any graded street, lane, alley, place, or court within the limits of such municipality. Such resolution of intention may embrace the entire length of any street, lane, alley, place, or court, or any portion thereof, but must specify the kind of trees to be planted, their size, age and their distance apart. The street superintendent shall thereupon cause to be conspicuously posted along both sides of the street mentioned in the resolution at not more than three hundred feet in distance apart, notices of the passage of said resolution. Said notice shall be headed "Notice to plant shade trees," in letters not less than one inch in length, and shall, in legible characters, set forth the language of the resolution and the date of its passage. The city clerk shall also cause a copy of the resolution to be published for six days in one or more daily newspapers published and circulated in said city, and designated by said city council.

§ 3. The owners of a majority of the frontage of the property on both sides of the street proposed to be planted as aforesaid may, within ten days after the expiration of the time of publication of said resolution, file their written statement of objections to the proposed work with the city clerk, which must be signed by the objectors, each one writing after his or her name the number of feet frontage owned by him or her. Such objection must show wherein the parties making them will be injured or aggrieved by the proposed work, and if the objection be to the kind of trees proposed to be planted, they must name some other kind of tree to be substituted therefor. The city council shall, at its next meeting after the filing of said objections, fix a time for hearing the same, not less than one week thereafter. The city clerk shall thereupon notify each objector, or his agent, who has signed his or her name to the statement, by depositing, in the post-office of said city, a notice addressed to him or her, postage prepaid, notifying the objectors of the time and place of hearing. At the time specified, the council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive, except that in the choice of trees to be planted, it shall be governed by the written request of the owners of a majority of the frontage on both sides of the street which it is proposed to plant. If the objections be sustained, no further proceedings shall be taken under the resolution of intention for six months after the date of its passage. If it be again proposed to plant the street, the council shall commence proceedings de novo as if no action had been previously taken.

§ 4. At the expiration of ten days after the expiration of the time of publication of said resolution of intention, if no written objections to the work therein described shall have been filed with the city clerk, as hereinbefore provided,

otherwise, immediately upon the overruling of the objections by the council, the council shall be deemed to have acquired jurisdiction to order to be done the work which is authorized by this act, which order shall be published for two days in the same papers and manner as provided for the publication of the resolution of intention.

§ 5. Before passing any resolutions for the planting of any street, the city council shall cause notice with specifications, to be posted conspicuously for five days near the door of the council chamber, and shall advertise the same for five days in the same manner and papers as heretofore provided for the publication of the resolution of intention, inviting sealed proposals for bids for furnishing the trees and doing the work ordered. All bids shall state the sum or price for which the bidder will undertake to furnish the trees, of the kind, age, and size required, and will suitably prepare the ground, set out the trees, warrant every one of them to grow, or replace all that fail to grow or receive damage from whatever cause with others of the same kind, and of suitable age and size to preserve uniformity, and will for three years care for, cultivate, protect, irrigate, and trim said trees. And no order for the planting of any street shade trees shall be made that does not likewise provide for the care and maintenance of the trees for three years by the contractor planting the trees. All proposals or bids shall be accompanied by a check payable to the order of the mayor or president of the city council, certified by a responsible bank, for an amount which shall not be less than ten per centum of the aggregate of the proposal. Said proposals or bids shall be delivered to the clerk of the city council, indorsed "Proposals to plant trees," and said council shall, in open session, examine and publicly declare the same; provided, that no proposal or bid shall be considered unless accompanied by said check. The council may reject all proposals, should it deem this for the public good, and shall reject the bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and may award the contract to the lowest responsible bidder, at the prices named in his bid, which award shall be approved by the mayor or president of the council. Notice of such awards of contract shall be posted and advertised for five days, in the manner hereinbefore provided, and it shall be the duty of the superintendent of streets to enter into a contract with the bidder to whom the work shall have been awarded by the council, and at the prices specified in his bid; whereupon the certified checks of all the other bidders shall be returned to them, respectively. But if such lowest bidder neglects, fails, or refuses, for fifteen days after the first posting and publication of the award, to enter into the contract, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and shall award the contract for said work to the then lowest bidder. If the contractor who shall have taken any contract shall not complete the planting, within the time limited in the contract, or within such further time as the council may give him, the superintendent of streets shall report such delinquency to the council, which may relet the unfinished portion of the planting and the future care of the trees, after pursuing the formalities hereinbefore prescribed for the letting of the whole in the first instance.

§ 6. All contractors shall, at the time of executing any contract for the planting and care of trees, execute a bond to the satisfaction of the mayor or president

of the city council, with two or more sureties, and payable to the city in such sums as the mayor or president of the council shall deem adequate, conditioned for the faithful performance of the contract, and the sureties shall justify before the recorder or a justice of the peace, in double the amount mentioned in such bond, over and above all statutory exemption. Before being entitled to any contract, the bidder to whom the award shall have been made must pay into the city treasury the cost of the publication of notices, resolutions, and orders, and all other incidental expenses required under the proceedings prescribed by this act.

§ 7. All work done under the provisions of this statute shall be executed under the direction of the superintendent of streets, whose duty it shall be, under the general control of the council, to see that all the obligations assumed by contractors towards the city are faithfully complied with, and that all trees furnished are sound, healthy, free from infection by insects, and of the kind, size, and age called for by the contract. He shall certify to the completion of all work, or portion of work, which, by the terms of the contract, shall entitle the contractor to payment in whole or in part, and the presentation of his certificate by the contractor shall be a condition precedent to each payment that shall become due under the contract.

§ 8. All sums due to contractors under the provisions of this act shall be payable by instalments, as follows, to wit: Not more than one half the entire consideration in the contract shall be payable on the completion of the planting, and out of this amount the superintendent of streets shall see that the trees are paid for, to the party furnishing the same; one half the balance at the end of eighteen months after the completion of the planting; provided, all conditions shall have been complied with; the remaining one half to be paid at the end of three years after the completion of the planting; provided, all conditions shall have been complied with.

§ 9. Immediately upon the execution of any contract for the planting and care of street trees under the provisions of this act, it shall be the duty of the city assessor to make an assessment to cover the sum to become due for the work specified in such contract (including all incidental expenses) upon the lots and land fronting on the street, lane, alley, court, or place to which such contract relates, each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per foot front sufficient to cover the total expenses of the work. Said assessment shall briefly refer to the contract, the work contracted for, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per foot front assessed, the amount of each assessment, the name of the owner of each lot, if known to the assessor (if unknown, the word "Unknown" shall be written opposite the number or description of the lot, with the amount assessed thereon). And the assessor shall attach to said assessment a diagram, exhibiting the street, lane, alley, place, or court on which the work is contracted to be done, and showing the relative location and frontage of such lot, numbered to correspond with the numbers in the assessment. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor or president of the council. The said assessments and warrants shall be separately issued for each payment

that shall be due the contractor, as specified in section eight of this act, and shall be substantially in the following form:

By virtue hereof, I (name of the superintendent of streets), of the city of —, county of —, and state of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), his agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be his warrant for the same.

Date —, —. (Name of superintendent of streets.)

Countersigned by (name of mayor or president of council).

Recorded (date —, —). (Name of superintendent of streets.)

Said warrant, assessment, and diagram shall be recorded in the office of the superintendent of streets. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged. From and after the date of said record, all persons interested in any manner in any or all of the lots assessed shall be deemed to have notice of the contents of said record.

§ 10. After said warrant, assessment, and diagram shall have been recorded, the same shall be delivered to the contractor, his agents or assigns, on demand, who shall thereby be authorized to demand and receive the amounts of the several assessments. In default whereof, and as regards enforced collections, interest, cost, and penalties, and the correction of errors, the same proceedings are to be had as are specified in sections nine, ten, eleven, twelve, sixteen, and seventeen of an act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, amended March fourteenth, eighteen hundred and eighty-nine.

§ 11. The city council of every municipality in this state has jurisdiction of the hedges and fences placed by property owners along street lines, and may, by ordinance, prohibit the planting of thorn-bearing hedges and the use of barbed wire along street lines, and may regulate the height, width, and the mode of trimming hedges, and enforce ordinances enacted for such purposes against absentees, or other negligent or recusant owners or occupants of lots or lands on which hedges are maintained. They may also condemn as public nuisances, any or all weeds whose seeds are of a winged or downy nature, and are spread by the winds, and may compel the eradication of such weeds by the owners of the lots whereon they grow, or at their expense.

§ 12. The city council or trustees of every municipality shall provide for the replacement of missing trees, and for the trimming and care of all trees that have or shall have been planted for three or more years in the streets and highways, whether such planting shall have been done under this act or otherwise; the expense whereof must be defrayed out of the street fund, and the work be done by the superintendent of streets of such municipality.

§ 13. This act shall only apply to such municipalities as shall by vote of the electors residing therein determine to come within its provisions.

§ 14. This act shall take effect from and after its passage.

See tits. **Big Trees; Street Law.**

TRESPASSING ANIMALS.

See tits. **Animals—Estray; Estray Animals**, and note thereunder.

TRICYCLES.

See tits. **License Tax; Motor Vehicles**.

TRINITY COUNTY—RECORDS.

Concerning the county records of the county of Trinity.

(Stats. 1862, 164, ch. CLXV; amended 1863, 22, ch. XIX.)

§ 1. The board of supervisors of the county of Trinity are hereby authorized and empowered, at the regular meeting of said board, to be held in the month of May, anno Domini eighteen hundred and sixty-two, or at any regular meeting thereafter, to order the transcribing and indexing of the books of record of said county, in the office of the county recorder thereof, and known as books "D," "E," and "H," also, of any journals of the district court, the probate court, the county court, the court of sessions, or board of supervisors of said county, which said board may deem necessary; provided, that it shall not be lawful for the county recorder to transcribe or index such books of record, or any part thereof, under the provisions of this section, after the first day of May, eighteen hundred and sixty-three. [Amendment, Stats. 1863, 22.]

§ 2. All the copies hereby required shall be made in plain and legible handwriting, and substantial, full-bound books, shall be purchased by the said county for the object herein specified, and said copies, when made, shall be duly certified, and when so certified, shall have the same force, and be as valid in evidence, as the originals.

§ 3. When it shall appear to said board of supervisors that so much of the said work as may be ordered by said board to be performed, has been fully completed, then the said board shall order that the county recorder of said county be paid, out of the moneys in the general fund of said county, the sum of twenty cents for each and every folio of one hundred words, in the same manner as other county indebtedness, and no further compensation whatever shall be allowed for such services under this act.

§ 4. The original records shall be carefully preserved in the office of said county recorder, for future reference.

TULARE COUNTY.

See tits. **Fresno; Water Commissioner**.

TULARE COUNTY—ADDITIONAL JUDGE.

To increase the number of judges of the superior court of the county of Tulare, and to provide for the appointment of an additional judge.

(Stats. 1891, 61, ch. LXVIII.)

§ 1. The number of judges of the superior court of the county of Tulare is hereby increased from one to two.

§ 2. Within ten days after the passage of this act, the governor shall appoint one additional judge of the superior court of the county of Tulare, state of

California, who shall hold office until the first Monday after the first day of January, anno Domini eighteen hundred and ninety-three. At the next general election, a judge of the superior court of said county, shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner, as the salary of the other judge of the superior court of said county now authorized by law.

§ 4. This act shall take effect and be in force from and after its passage.

People vs. Markham, 104 Cal. 235, 37 Pac. Rep. 918.

TULARE COUNTY—JUDGES.

To reduce the number of judges of the superior court of the county of Tulare from two to one.

(Stats. 1895, 128, ch. CXXXVIII.)

§ 1. The number of judges of the superior court of the county of Tulare, state of California, is hereby reduced from two to one; provided, that the provisions of this section shall not affect either of the present judges of said superior court.

§ 2. No election of a judge of the superior court shall be held in said county prior to the general election in the year one thousand eight hundred and ninety-eight, and no vacancy in the office of judge of the superior court of said county occurring on or prior to the first Monday after the first day of January, in the year one thousand eight hundred and ninety-seven shall be filled by appointment or otherwise, unless necessary to maintain one judge of said superior court.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

TUOLUMNE RIVER—BRIDGE.

To authorize the construction and maintenance of a bridge across the Tuolumne River at the town of Modesto.

(Stats. 1877-8, 455, ch. CCCXLII.)

§ 1. Thomas D. Harp, John W. McCarthy, and George Perley, and their heirs and assigns, are hereby authorized and empowered to build, erect, construct, and maintain a public toll-bridge across the Tuolumne River, at the town of Modesto, in the county of Stanislaus, and state of California, at a point on said river to be selected by said parties, within two miles of the railroad bridge, opposite the town of Modesto, and the right of way for said bridge across said river at such point is hereby granted to them.

§ 2. The said toll-bridge shall be constructed in a good and substantial manner and of the most durable materials, and shall have a draw opening of sufficient dimensions to admit the passage of all boats, crafts, and vessels plying upon said Tuolumne River; and the said Thomas D. Harp, John W. McCarthy, and George Perley, and their heirs and assigns, shall, at all times, keep said draw in good working order and condition, and shall allow any boat, craft, or vessel to pass at any time; and said Harp, McCarthy, and Perley, their

heirs and assigns, and each of them, shall be liable for any damages that may accrue by neglect or inattention to their duties as prescribed in this act, to be recovered in any court of competent jurisdiction.

§ 3. The said Thomas D. Harp, John W. McCarthy, and George Perley, their heirs and assigns, shall build, erect, and construct said toll-bridge within three years after the passage of this act; and upon the completion thereof, said parties, their heirs and assigns, shall be authorized and empowered to charge and collect toll for the use of said bridge for the period of fifty years, and may maintain said bridge during said period for that purpose, and the board of supervisors of the county of Stanislaus shall have power and jurisdiction to fix and establish the rate of toll to be so charged and collected thereon.

§ 4. The owners of said toll-bridge may regulate the speed of travel, riding or driving, upon said bridge, and they shall keep in some conspicuous place, on each end of the bridge, a bulletin board which shall contain the scale of tolls and rate of speed allowed on said bridge.

§ 5. Any assignment or transfer of said bridge, or the franchise herein granted, or any interest therein, or in the right to charge and collect tolls on said bridge, shall be by instrument in writing, signed by the party assigning or transferring the same, or by his agent thereunto lawfully authorized and acknowledged, and recorded in the office of the county recorder of the county of Stanislaus.

§ 6. Said bridge and the franchises herein granted shall be liable to execution, subject to taxation, and descend as other property; and no other bridge or ferry be established within one mile above or below said bridge without the consent of the owners thereof.

§ 7. Said Thomas D. Harp, John W. McCarthy, and George Perley, their heirs and assigns, are hereby authorized and constituted agents for the state of California to take such proceedings as are prescribed by the Code of Civil Procedure of this state, to acquire sufficient land at either end of said bridge to rest the same upon, and on which to erect such toll-house and other appurtenances as may be necessary to the maintenance of said bridge, including the right of way for roads leading to and from said bridge. And said bridge so constructed and said roads shall be public highways.

§ 8. Any person riding or driving over said bridge faster than the speed allowed by said bridge owners, shall be deemed guilty of misdemeanor, and, upon conviction thereof before any justice of the peace, shall be fined in any sum not less than five nor more than twenty dollars and costs of prosecution.

§ 9. This act shall take effect on and after its passage.

UNDERWRITERS—FIRE PATROL.

See Stats. 1905, 571, ch. CDXXXII, KERR'S CYC. CIVIL CODE §§ 453a, 453b, 453c.

UNION.

See tits. Arcata; Municipal Corporations.

UNION SOLDIERS.

See tits. License; Public Service; Sailors and Soldiers.

UNITED STATES CURRENCY.

See tit. Legal Tender.

UNIVERSITY.

See tits. Horticulture; Stanford Junior University; State Analyst; State Geological Survey; University of Agriculture; University of California, Organic Act.

UNIVERSITY OF CALIFORNIA—AFFILIATED COLLEGES.

Appropriations of \$250,000 and \$125,000, buildings for the affiliated departments of respectively, were made by Stats. 1895, 69, the university.
ch. LXXIII, and 1897, 14, ch. XVII, for

UNIVERSITY—AGRICULTURE—FARM.

Providing for the purchase of a university farm for the use of the college of agriculture of the University of California; providing for the appointment of a commission to select and purchase said farm, providing for a school of agriculture and a system of instruction on said farm and appropriating money therefor.

(Stats. 1905, 131, ch. CXXIX.)

§ 1. A commission is hereby appointed to consist of five persons who shall be known as the "Commissioners for the Selection and Purchase of a University Farm." Said commission shall consist of the following persons, each of whom shall be, and is hereby appointed as a member of said commission: The governor of the state of California, who shall be the president of said commission; the president of the University of California; the lieutenant-governor of the state of California; the president of the state board of agriculture; and the state commissioner of horticulture of California. Said commission[ers] shall hold office until they have performed the duties hereinafter provided for. They shall receive no compensation, but the expenses of their qualification and necessary traveling expenses shall be paid out of the moneys hereinafter appropriated.

§ 2. Immediately after the appointment of said commissioners they shall organize and proceed to select and purchase a farm or tract of land to be known as the university farm, and to be used as an agricultural college farm, and for the site or location of buildings, and such other structures as may be necessary for use in connection therewith and for the purposes herein set forth. Said farm or tract of land shall be of such size and acreage as in the judgment of the commission, may be necessary for the purposes desired—provided, however, there shall be not less than three hundred and twenty acres of first-class tillable land, located at such place as said commission may deem proper, having consideration for the purposes for which it is to be used. It must be first-class tillable land, and in its soil, location, climate and general environment be typical and representative of the best general agricultural conditions in California, and be capable of successfully producing the general crops of the state, and as many as may be of all of the crops and products successfully grown in California. Provided, that no site or tract shall be chosen, one half of which at least is not susceptible of irrigation, and for the irrigation of which

some system is not already provided, or for which a water right is not purchased or procured at the time the land is selected. For the purposes of securing or purchasing said farm, said commission shall have the power to take and secure options, or bonds, for deeds, and may accept a gift of the whole or any part of said farm. They may also receive gifts of water rights, canals, ditch, flume or other rights, easements or appurtenances to any farm which they may select, and may also purchase any such water or other rights, or acquire the same by the exercise of the right of eminent domain.

§ 3. The deed for said farm or tract of land, or other property purchased, shall, when the same shall have been purchased by said commission, be taken in the name of, and the deed shall be made to the regents of the University of California. When said commission shall have selected and purchased the said tract or farm or other property herein provided for, they shall present their claim for the amount or sum agreed to be paid therefor to the state board of examiners, and upon the allowance of said bill or claim the controller shall draw his warrant for the amount thereof, payable out of the sum hereby appropriated in favor of the owner or owners of the properties selected and purchased as hereinabove provided for. Said warrant or warrants when so drawn shall be delivered to said commission, which shall use the same to pay the purchase price of said farm or tract or other property, taking a deed therefor as aforesaid, the same to be delivered and filed with the regents of the University of California.

§ 4. The said university farm when purchased as aforesaid shall be immediately given into the possession of, and shall be under the management, direction and control of the board of regents of the University of California. Immediately upon obtaining possession of said university farm said regents shall proceed to have constructed thereon buildings and such other structures as shall be necessary for an agricultural school, and for the use thereof for purposes of education in agriculture. They shall provide for the purchase of supplies, implements, machines, and apparatus, the planting of trees and vines, and forage and agricultural crops, for the purchase of domestic live stock, and for the employment of laborers. They shall appoint the necessary instructors and inaugurate and provide for the conduct of instruction in agriculture, and in such other branches of learning as are allied thereto, and as are calculated to better qualify and inform the students attending in the theory and practice of agriculture. This instruction shall be conducted in connection with, and as a part of, the college of agriculture of the University of California, provisions being made by the regents for such attendance on the farm of the college students as may be deemed best and necessary to the completion of their college courses. The university farm, and the instruction given thereon shall be so conducted as to meet the needs of persons who desire instruction in agriculture, horticulture, viticulture, animal industry, dairying, irrigation and poultry raising, and to prepare them for the pursuit thereof; and shall also be used for experimental and investigational work in connection with the agricultural experiment station of the University of California. Short courses of instruction shall also be arranged for in each of the leading branches of agricultural industry, so regulated as to provide for popular attendance and general instruction in agricultural practice.

§ 5. The sum of one hundred and fifty thousand dollars is hereby appropriated out of any moneys in the general fund of the state treasury, for the purposes of this act; provided, that fifty thousand dollars of said sum shall be payable immediately, fifty thousand dollars on the first day of July, nineteen hundred and five, and the remaining fifty thousand dollars thereof on the first day of January, nineteen hundred and six. The commission hereinabove provided for shall draw against said appropriation as hereinabove authorized. After such sums have been paid therefrom, the remaining portion of said appropriation shall be subject to the order of, and shall be paid to the said board of regents to be used by them exclusively for the construction of the buildings and the other purposes herein provided for.

§ 6. This act shall take effect immediately.

UNIVERSITY OF CALIFORNIA—DEPARTMENT OF MUSIC.

To create a department of music in the university of the state of California; to provide a professorship of music and to appropriate money therefor.

(Stats. 1905, 801, ch. DCIII.)

§ 1. The board of regents of the University of California is hereby authorized to organize, establish and create in the University of California, a department of music with the object of providing instruction in music to the students of the university. Said department of music shall be under the direction of a professor of music to be chosen and appointed by the board of regents, and a professorship of music in the University of California with a salary fixed in the sum of three thousand dollars per annum is hereby created. Said board of regents shall make such other and further rules and regulations as it may deem proper for the organizing and conducting of said department of music.

§ 2. The sum of six thousand dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated for the use of the regents of the University of California in carrying out the purposes as prescribed in section one. One half of said sum, viz., three thousand dollars shall be paid on the first day of July, nineteen hundred and five, and the remaining one half (three thousand dollars) shall be paid on the first day of July, nineteen hundred and six.

§ 3. The controller is authorized and directed to draw his warrants for the above sums, payable to the order of the treasurer of the University of California, and the treasurer of state is directed to pay the same.

§ 4. This act shall be in effect from and after its passage.

UNIVERSITY OF CALIFORNIA—FARMERS' INSTITUTES.

Authorizing the regents of the state university to hold farmers' institutes, and making an appropriation therefor, and prescribing the duties of the controller and treasurer in relation thereto.

(Stats. 1903, 205, ch. CLXXXIV.)

§ 1. The board of regents of the University of California is hereby authorized to hold institutes for the instruction of citizens of this state in the various branches of agriculture. Such institutes shall be held at such times, and at

such places, as said board may direct. The said board shall make such rules and regulations as it may deem proper for organizing and conducting such institutes, and may employ an agent or agents to perform such work in connection therewith as they deem best. The course of instruction at such institutes shall be so arranged as to present to those in attendance the results of the most recent investigations in theoretical and practical agriculture.

§ 2. The sum of twelve thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the use of the regents of the University of California in discharging its duties, as prescribed in section one, during the two fiscal years following the passage of this act. One half of said sum, viz., six thousand dollars, shall be paid on the first day of July, nineteen hundred and three, and the remaining one half (six thousand dollars) shall be paid on the first day of July, nineteen hundred and four.

§ 3. The controller is authorized and directed to draw his warrants for the above sums, payable to the order of the treasurer of the University of California, and the treasurer of the state is directed to pay the same.

§ 4. This act shall be in effect from and after its passage.

See next following statute.

UNIVERSITY—FARMERS' INSTITUTES.

Authorizing the regents of the University of California to hold farmers' institutes, making an appropriation therefor, and prescribing the duties of the controller and treasurer in relation thereto.

(Stats. 1905, 225, ch. CCLI.)

§ 1. The regents of the University of California are hereby authorized to hold institutes for the instruction of citizens of this state in the various branches of agriculture. Such institutes shall be held at such times, and at such places as said regents may direct. The said regents shall make such rules and regulations as they may deem proper for organizing and conducting such institutes, and may employ an agent or agents to perform such work in connection therewith as they deem best. The course of instruction at such institutes shall be so arranged as to present to those in attendance the results of the most recent investigations in theoretical and practical agriculture.

§ 2. The sum of twelve thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the use of the regents of the University of California in discharging their duties, as prescribed in section one, during the two fiscal years following the passage of this act. One half of said sum, viz.: six thousand dollars, shall be paid on the first day of July nineteen hundred and five, and the remaining one half (six thousand dollars) shall be paid on the first day of July, nineteen hundred and six.

§ 3. The controller is authorized and directed to draw his warrants for the above sums, payable to the order of the treasurer of the University of California, and the treasurer of the state is directed to pay the same.

§ 4. This act shall be in effect from and after its passage.

UNIVERSITY OF CALIFORNIA—ENDOWMENT.

For the endowment of the University of California.

(Stats. 1869-70, 668, ch. CCCCLX.)

§ 1. The treasurer of state shall place to the credit of the university fund so much of any moneys that may be received by him from the net proceeds of sale of any salt-marsh and tide lands lying in and around the bay of San Francisco, belonging to the state of California, as, being invested in the bonds of said state, or of the United States, shall yield an annual income of fifty thousand dollars (\$50,000).

§ 2. Said moneys shall be a fund, the capital of which shall remain undiminished, and the interest of which shall be inviolably applied to the support of the University of California; provided, that if, at any time, the income accruing to the university from the fund created by this act, and the net income derived from all other sources, shall together exceed an average for the preceding years, reckoning from the date of the passage of this act, of fifty thousand dollars per annum, then the excess above said average of fifty thousand dollars per annum shall be paid into the common school fund of the state.

§ 3. Whenever the sum paid into the university fund, from the proceeds of the sale of salt-marsh and tide lands, as directed in section one, shall amount to fifty thousand dollars, net proceeds, it shall be the duty of the treasurer to advertise, in two daily newspapers published in English, in each of the cities of San Francisco and Sacramento, for sealed proposals for the surrender of any of the civil bonds of the state of California, or of any gold-bearing bonds of the United States. He shall state in such advertisement the amount of money on hand applicable to the purchase of bonds, and he shall accept such proposals as will yield the greatest amount of annual interest in gold coin of the United States.

§ 4. All bonds thus purchased shall be indorsed "University Fund," and shall be held by the treasurer of state, who shall collect the interest thereon, which interest, when collected, shall be paid into the university fund to the extent provided for in section two of this act, and paid out therefrom, semi-annually, to the regents of the university, upon their order, to be by them expended for university purposes; provided, no portion of said interest so received shall be used for the erection or purchase of buildings nor for the purchase of lands.

§ 5. Whenever the principal of any of the bonds indorsed "University Funds," in the hands of the treasurer, shall be paid, the amount so paid shall be reinvested in like manner as is provided for in section three.

For further endowment and support, see Stats. 1877-8, 337; 1887, 2; 1897, 44; 1901, 110; 1901, 307.

UNIVERSITY OF CALIFORNIA—ORGANIC ACT.

To create and organize the University of California.

(Stats. 1867-8, 248, ch. CCXLIV; amended 1871-2, 655, ch. CCCCXL; 1897, 57, ch. LXV.)

§ 1. A state university is hereby created, pursuant to the requirements of section four, article nine, of the constitution of the state of California, and in

order to devote to the largest purposes of education, the benefaction made to the state of California under and by the provisions of an act of Congress passed July second, eighteen hundred and sixty-two, entitled an act donating land to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts. The said university shall be called the University of California, and shall be located upon the grounds heretofore donated to the state of California by the president and board of trustees of the College of California. The said university shall be under the charge and control of a board of directors, to be known and styled "The Regents of the University of California." The university shall have for its design, to provide instruction and complete education in all the departments of science, literature, art, industrial and professional pursuits, and general education, and also special courses of instruction for the professions of agriculture, the mechanic arts, mining, military science, civil engineering, law, medicine and commerce, and shall consist of various colleges, namely:

First—College of arts.

Second—A college of letters.

Third—Such professional and other colleges as may be added thereto or connected therewith.

§ 2. Each full course of instruction shall consist of its appropriate studies, and shall continue for at least four years, and the faculty, instructors and body of students in each course shall constitute a college, to be designated by its appropriate name. For this purpose there shall be organized as soon as the means appropriated therefor shall permit:

First—The following colleges of arts; a state college of agriculture; a state college of mechanic arts; a state college of mines; a state college of civil engineering; and such other colleges of arts as the board of regents may be able and find it expedient to establish.

Second—A state college of letters.

Third—Colleges of medicine, law and other like professional colleges.

§ 3. A proper degree of each college shall be conferred at the end of the course upon such students as, having completed the same, shall, at the annual examination, be found proficient therein; but each college shall also have a partial course for those who may not desire to pursue a full course therein; and any resident of California, of the age of fourteen years or upwards, of approved moral character, shall have the right to enter himself in the university as a student at large, and receive tuition in any branch or branches of instruction at the time when the same are given in their regular course, on such terms as the board of regents may prescribe. The said board of regents shall endeavor so to arrange the several courses of instruction that the students of the different colleges and the students at large may be largely brought into social contact and intercourse with each other by attending the same lectures and branches of instruction.

§ 4. The college of agriculture shall be first established; but in selecting the professors and instructors for the said college of agriculture, the regents shall, so far as in their power, select persons possessing such acquirements in their several vocations as will enable them to discharge the duties of professors

in the several colleges of mechanic arts, of mines and of civil engineering, and in such other colleges as may be hereafter established. As soon as practicable a system of moderate and manual labor shall be established in connection with the agricultural college, and upon its agricultural and ornamental grounds, having for its object practical education in agriculture, landscape gardening, the health of the students, and to afford them an opportunity by their earnings of defraying a portion of the expenses of their education. These advantages shall be open in the first instance to students in the college of agriculture, who shall be entitled to a preference in that behalf.

§ 5. The college of mechanic arts shall be next established; and in organizing this, or any other college, the same regard hereinbefore indicated shall be had for the general acquirements of each professor and instructor, so that he may be able to give general and special instruction in as many classes and sources of instruction as possible; and inasmuch as the original donation, out of which the plan of a state university has had its rise, was made to the state by virtue of the aforesaid act of Congress entitled an act donating land to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July second, eighteen hundred and sixty-two, the said board of regents shall always bear in mind that the college of agriculture and the college of mechanic arts are an especial object of their care and superintendence, and that they shall be considered and treated as entitled primarily to the use of the funds donated for their establishment and maintenance by the said act of Congress.

§ 6. The college of mines and the college of civil engineering shall be next established, and such other colleges of arts as the board of regents may be able to establish with the means in their possession or under their control; and in order to fulfil the requirements of said act of Congress, all able-bodied male students of the university whether pursuing full or partial courses in any college, or as students at large, shall receive instruction and discipline in military tactics in such manner and to such extent as the regents shall prescribe, the requisite arms for which shall be furnished by the state.

§ 7. The board of regents, having in regard the said donation already made to the state by the president and board of trustees of the College of California, and their proposition to surrender all their property to the state for the benefit of the state university, and to become disincorporate and go out of existence as soon as the state shall organize the university, by adding a classical college to the college of arts, shall, as soon as they deem it practicable, establish a college of letters. The college of letters shall be coexistent with the aforesaid colleges of arts, and shall embrace a liberal course of instruction in language, literature and philosophy, together with such courses or parts of courses in the aforesaid colleges of arts as the authorities of the university shall prescribe. The degree of bachelor of arts, upon due examination, and afterwards the degree of master of arts, in usual course, shall be conferred upon the graduates of this college. But the provisions herein and hereinbefore contained regarding the order in which the said colleges shall be organized shall not be construed as directing or permitting the organization of any of the specified colleges to be unnecessarily delayed, but only as indicating the order in which said colleges shall be organized, beginning with the college of agriculture and ad-

ding in succession to the body of instructors in that and the other colleges such other instructors as may be necessary to organize the other colleges successively in the order above indicated. Only the first year's course of instruction shall be provided for in each college at first, the other successive years' courses being added in each year as the students advance to the same, until the full course in each college is established; provided, however, that the board of regents may organize at once the full course of the college of letters, if in their judgment it is expedient so to do in order to allow the College of California to immediately convey the residue of its property to the state for the benefit of the university, and to become disincorporate and go out of existence, pursuant to its proposition to that effect.

§ 8. The board of regents may affiliate with the university, and make an integral part of the same, and incorporate therewith, any incorporated college of medicine or of law, or other special course of instruction now existing, or which may hereafter be created, upon such terms as to the respective corporations may be deemed expedient; and such college or colleges so affiliated shall retain the control of their own property, with their own boards of trustees, and their own faculties and presidents of the same, respectively, and the students of those colleges, recommended by the respective faculties thereof, shall receive from the university the degrees of those colleges; provided, however, that the president of the university shall be, *ex officio*, a member of the faculty, of each and every college of the university, and president of such faculty.

§ 9. The examinations for degrees shall be annual, and the board of regents shall take measures to make such examinations thorough and complete. Students who shall have passed not less than a full year as resident students in any college, academy or school in this state, and, after examination by the respective faculty of such college, academy, or school, are recommended by such faculty as proficient candidates for any degree in any regular course of the university, shall be entitled to be examined therefor at the annual examination; and, on passing such examination, shall receive such degree for that course, and the diploma of the university therefor, and shall rank and be considered in all respects as graduates of the university. All students of the university who have been resident students thereof for not less than one year, and all graduates of the university in any course, may present themselves for examination in any other course, or courses, at the annual examinations, and on passing such examination shall receive the degree and diploma of that course. Upon such examinations each professor and instructor of that course shall cast one vote upon each application for recommendation to the board of regents for a degree, and the votes shall be by ballot. In case the College of California shall surrender its property to the university, and said donation shall be accepted by the board of regents, and said College of California shall thereafter become disincorporate in pursuance of its proposition heretofore made to that effect, the graduates and those who shall have received the degrees of that college, shall receive the degrees from the university, and be considered in all respects graduates of the same. And the last above expressed provision shall apply to the previous graduates of any incorporated college of medicine, law, or other professional college which shall become affiliated with the university, as herein otherwise provided. The board of regents shall

also confer certificates of proficiency in any branch of study upon such students of the university as, upon examination, shall be found entitled to the same. The style of diplomas and degrees shall be: "University of California, College of Agriculture;" or, with the name of the other respective college; but honorary degrees for the higher degrees, not lower than that of master of arts, may be conferred, with the designation of the university alone, upon persons distinguished in literature, science and art.

§ 10. Scholarships may be established in the university by the state, associations or individuals, for the purpose of affording tuition in any course of the university, free from the ordinary charges, to any scholar in the public schools of the state, who shall distinguish himself in study, according to the recommendation of his teachers, and shall pass the previous examination required for the grade at which he wishes to enter the university, or for the purpose of private benefaction; provided, that the said scholarships shall be approved and accepted by the board of regents.

§ 11. The general government and superintendence of the university shall vest in a board of regents, to be dominated the "Regents of the University of California," who shall become incorporated under the general laws of the state of California by that corporate name and style. The said board shall consist of twenty-two members, all of whom shall be citizens and permanent residents of the state of California, as follows:

First—Of the following ex officio members, namely: His excellency the governor; the lieutenant governor, or the person acting as such; the speaker, for the time being, of the assembly; the state superintendent of public instruction; the president, for the time being, of the state agricultural society; and the president, for the time being, of the Méchanics' Institute of the city and county of San Francisco;

Secondly—Of eight other appointed members, to be nominated by the governor, by and with the advice and consent of the senate, who shall hold their office for the term of sixteen years; provided, that such members first so appointed shall be classified by lot at the first meeting of the board of regents, so that one of the numbers so appointed shall go out of office at the end of every successive two years, and after that the full term to be sixteen years; and the record of such classification shall be transmitted by said board of regents to the secretary of state and filed in his office;

Thirdly—Of eight additional honorary members, to be chosen from the body of the state by the official and appointed members, who shall hold their office for the term of sixteen years; provided, that such honorary members first so chosen shall be classified by lot, when so appointed, by the board of regents so appointing them, so that one of the members so chosen shall go out of office at the end of each successive two years, and after that the full term to be sixteen years; and the record of such classification shall be transmitted by said board of regents to the secretary of state and filed in his office. Each member of the said board, whether official, appointed or honorary, shall, if present, be entitled to one vote at all the meetings of said board. The first official year from which the terms of office shall be computed to run, shall be the first day of March, in the year eighteen hundred and sixty-eight. Vacancies in the office of appointed members of the board, occurring in the recess

of the legislature, shall be filled for the rest of the term by appointment of the governor. Vacancies in the office of honorary members occurring from any cause other than expiration of the term by limitation shall be filled for the rest of the term by appointment of the board of regents. In case the senate shall adjourn before the governor shall have nominated the first appointed members of the board of regents under this act, or before it shall have confirmed his nomination in their behalf, the governor shall appoint the same by his sole act. No member of the board of regents, or of the university, shall be deemed a public officer by virtue of such membership, or required to take any oath of office, but his employment as such shall be held and deemed to be exclusively a private trust, and no person who at the time holds any executive office or appointment under the state shall be a member of said board, except the executive officers above mentioned. The governor shall be president of the board of regents, and in his absence the board shall appoint a president pro tempore.

§ 12. The said board of regents, when so incorporated, shall have the custody of the books, records, buildings, and all other property of the university. The lands and other property heretofore donated to the state by the president and trustees of the College of California, and which are situated in the township of Oakland, in the county of Alameda, for the purpose of erecting thereon an agricultural college, and for other purposes mentioned in the deed of conveyance by which the same were so conveyed, shall be and forever remain vested in the state of California; as shall also be so vested in the said state all property which shall be purchased by the funds of the state, or from the proceeds of donations made to the state for the purpose of the university, or of any of the colleges or professorships thereof; and the said board of regents shall have no power to alienate or encumber, by mortgage, hypothecation, lien, or otherwise, any portion of said property except on terms such as the legislature shall have previously approved; any act of the said regents, or of any other person, which shall purport to have that effect shall be wholly null and void. All lands, moneys, bonds, securities or other property which shall be donated, conveyed or transferred to the said board of regents by gift, devise, or otherwise, including such property as may hereafter be donated and conveyed by the president and board of trustees of the College of California, in trust, or otherwise, for the use of said university, or of any college thereof, or of any professorship, chair, or scholarship therein, or for the library, observatory, or any other purpose appropriate thereto, shall be taken, received, held, managed, invested, reinvested, sold, transferred, and in all respects managed, and the proceeds thereof used, bestowed, invested and reinvested, by the said board of regents, in their corporate name and capacity, for the purposes and under the terms, provisions and conditions respectively prescribed by the act of gift, devise, or other act in the respective case. In case any incorporated college of law, medicine, or the like, shall be brought into the said university by affiliation, as herein otherwise provided, such college so affiliated may retain its own property, then possessed by it or thereafter to be acquired, to be vested in, and held and managed by its own corporation, and the said board of regents shall have no right of property in, or power or control over the same, nor shall be liable for any acts or contracts of such affiliated corporation.

§ 13. The regents and their successors in office, when so incorporated, shall have power, and it shall be their duty, to enact laws for the government of the university, to elect a president of the university and the requisite number of professors, instructors, officers and employees, and to fix their salaries, also the term of office of each, and to determine the moral and educational qualification of applicants for admission to the various courses of instruction. They shall also consider and determine whether the interests of the university and of the students, as well as those of the state, and of the great body of scientific men in the state whose purpose is to devote themselves to public instruction, will not be greatly promoted by committing those courses of instruction which are brief and special to professors employed for short terms, and for only a portion of each year in their special departments, and to be termed non-resident professors; and their decision in that regard may be reconsidered by them as often as they deem is expedient. And it is expressly provided that no sectarian, political or partizan test shall ever be allowed or exercised in the appointment of regents, or in the election of professors, teachers, or other officers of the university, or in the admission of students thereto, or for any purpose whatsoever; nor at any time shall the majority of the board of regents be of any one religious sect, or of no religious sect; and persons of every religious denomination, or of no religious denomination, shall be equally eligible to all offices, appointments and scholarships.

§ 14. For the time being, an admission fee and rate of tuition, such as the board of regents shall deem expedient, may be required of each pupil, except as herein otherwise provided; and as soon as the income of the university shall permit, admission and tuition shall be free to all residents of the state; and it shall be the duty of the regents, according to population, to so apportion the representation of students, when necessary, that all portions of the state shall enjoy equal privilege therein.

§ 15. The president of the university shall be president of the several faculties and the executive head of the institution in all its departments, except as herein otherwise provided. He shall have authority, subject to the board of regents, to give general direction to the practical affairs of the several colleges, and, in the recess of the board of regents, to remove any employee or subordinate officer not a member of any faculty and to supply for the time being any vacancies thus created; and, so long as the interests of the institution require it, he shall be charged with the duties of one of the professorships. A competent person, who is a practical agriculturist by profession, competent to superintend the workings of the agricultural farm, and of sufficient scientific acquirements to discharge the duties of secretary of the board of regents as prescribed in this act, shall be chosen by said board as their secretary, and, in addition to his special duties as such, as prescribed in this act, he shall perform such other duties as they shall impose. He shall receive for his services such reasonable salary as the board of regents shall prescribe. The board of regents may also appoint a treasurer of the university, and prescribe the form and sureties of his bond as such, which shall be executed, approved by them and filed with the secretary, before any such treasurer shall go into office. The secretary and treasurer shall be subject to summary removal by the board of regents.

§ 16. The secretary of the board of regents shall reside and keep his office

at the seat of the university. It shall be his duty to keep a record of the transactions of the board of regents, which shall be open at all times to the inspection of any citizen of this state. He shall also have the custody of all books, papers, documents, and other property which may be deposited in his office; also keep and file all reports and communications which may be made to the university from time to time by county, state and district agricultural societies, horticulture, viniculture, mechanical and mining societies; and of all correspondence from other persons and societies appertaining to the business of education, science, art, husbandry, mechanics and mining; address circulars to societies, and to the best practical farmers, mechanics and miners in this state and elsewhere, with a view of eliciting information upon the latest and best modes of culture of the products, vegetables, trees, et cetera, adapted to the soil and climate of the state, and also on all subjects connected with field culture, horticulture, stock raising and the dairy; he shall also correspond with established schools of mining and metallurgy in Europe, and obtain such information respecting the improvements of mining machinery adapted to California, and publish from time to time such information, as will be of practical benefit to the mining interests and the working of all ores and metals; receive and distribute such rare and valuable seeds, plants, shrubbery and trees as may be in his power to procure from the general government and other sources, as may be adapted to our climate and soils, or to purposes of experiment therein. To effect these objects he shall correspond with the patent office at Washington, and with the representatives of our national government abroad, and, if possible, procure valuable contributions to agriculture from these sources. He shall aid, as far as possible, in obtaining contributions to the museums and the library of the said college, and thus aid in the promotion of agriculture, science and literature. He shall keep a correct account of all the executive acts of the president of the university and an accurate account of all moneys received into the treasury as well as those paid out.

§ 17. The seeds, plants, trees and shrubbery received by the secretary and not needed by the university shall be, so far as possible, distributed without charge equally throughout the state, and placed in the hands of those farmers and others who will agree to cultivate them properly and return to the secretary's office a reasonable proportion of the products thereof, with a full statement of the mode of cultivation, and such other information as may be necessary to ascertain their value for general cultivation in the state. Information in regard to agriculture, the mechanic arts, mining and metallurgy may be published by him from time to time in the newspapers of the state as matter of public information, provided it does not involve any expense to the state.

§ 18. The immediate government and discipline of the several colleges shall be intrusted to their respective faculties, to consist of a president and the resident professors of the same, each of which shall have its own organization, regulate the affairs of its own college, recommending the course of study and the text-books to be used, for the approval of the board of regents, and, in connection with the president as its executive officer, have the government of its students. All the faculties and instructors of the university shall be combined into a body which shall be known as the academic senate, which shall have stated meetings at regular intervals and be presided over by the president,

or a president pro tempore, and which is created for the purpose of conducting the general administration of the university and memorializing the board of regents; regulating, in the first instance, the general and special courses of instruction, and to receive and determine all appeals couched in respectful terms from acts of discipline enforced by the faculty of any college. Its proceedings shall be conducted according to rules of order; and every person engaged in instruction in the university, whether resident professors, non-resident professors, lecturers, or instructors, shall have permission to participate in its discussions; but the right to vote shall be confined to the president and the resident and non-resident professors. But the regents shall have power to supervise the general courses of instruction, and on the recommendation of the several faculties prescribe the authorities and text-books to be used in the several courses and colleges, and also to confer such degrees and grant such diplomas as are usual in universities, or as they shall deem appropriate; provided, no honorary degree of any college or course shall be granted by the regents, nor shall any degree, certificate, or diploma, for any course or branch of instruction, be granted by the regents, unless upon examination therefor as prescribed in this act, except the substituted degrees and diplomas provisionally provided or those having received degrees from the College of California, in case the said college becomes extinct and disincorporates, and for the graduates of affiliated professional colleges as herein otherwise provided.

§ 19. At the close of each fiscal year the regents, through their president, shall make a report in detail to the governor, exhibiting the progress, condition and wants of each of the colleges embraced in the university, the course of study in each, the number of professors and students, the amount of receipts and disbursements, together with the nature, cost and results of all important investigations and experiments, and such other information as they may deem important; one printed copy of which shall be transmitted, free, by their secretary, to all colleges endowed under the provisions of the congressional act of July second, eighteen hundred and sixty-two, hereinbefore referred to; also one printed copy to the secretary of the interior, as provided in said act.

§ 20. For the endowment and support of the university and its buildings and improvements, there are hereby appropriated:

First—The capital, income, proceeds, securities, avails and interest that have accrued or may hereafter accrue from the sale of the seventy-two sections of land granted to the state for a seminary of learning by an act of Congress entitled an act to provide for the survey of the public lands in California, the granting of pre-emption rights therein, and for other purposes, approved March third, eighteen hundred and fifty-three, and from the sale of the ten sections of land granted to the state for public buildings, by said act of Congress, which shall be forthwith, so far as the same have been received, and hereafter as fast as the same shall be received by any of the officers of the state, shall be paid over to the said board of regents upon their order therefor.

Secondly—The income, revenue and avails which shall be derived or received from the investment of the proceeds of the sale of the lands, or of the scrip therefor, or of any part thereof, granted to this state by an act of Congress entitled an act donating public lands to the several states and territories of the United States for the benefit of agriculture and the mechanic arts, approved July

second, eighteen hundred and sixty-two, which are hereby appropriated to, and, from time to time, as the same shall be received, shall be paid into the state treasury, carried to the credit of the said board of regents, and paid over to the treasurer of the university, for the use and behoof of the said university, and expended by said board as elsewhere prescribed in this act; and said lands shall be located and sold under the direction of the board of regents, and for such price and on such terms only as they shall prescribe.

Thirdly—All such contributions to the endowment, or other funds, as may be derived from appropriations by the state, from the United States, or from public or private bounty. The entire income of said funds shall be placed at the disposition of the board of regents for the support of the university, and of the several colleges and schools thereof, as herein otherwise provided, with the exception of such affiliated incorporated colleges as shall preserve their own property and the income thereof, as herein otherwise provided; and provided, moreover, that all means derivable from either public or private bounty shall be exclusively devoted to the specific objects for which they shall have been designed by the grantor. The board of regents may appoint competent persons to solicit and collect private contributions for the endowment of the university, and pay them for their services in that behalf, out of the funds so obtained by them, such reasonable compensation as the said board may prescribe.

Fourthly—All such appropriations as may be made for that purpose by the legislature.

§ 21. For the current expenditures of the university, specific sums of money shall be set aside out of the funds at their disposal, by the board of regents, which shall be liable to disbursement for that purpose, and shall be subject to the warrants of the president of the board drawn upon the treasurer of the university in pursuance of the orders of the board of regents. All moneys received from labor and incidental sources shall be paid into the treasury and expended in the same manner as other moneys. All moneys which may at any time be in the state treasury, and subject to the use of the said board of regents, may be drawn therefrom by the president of the board, upon the order of said board, in favor of the treasurer of the university.

§ 22. Meetings of the board of regents may be called in such manner as the regents shall determine, seven of whom shall constitute a quorum for the transaction of business; but a less number may adjourn from time to time. No member of the board shall receive any compensation for his services as such member, nor be entitled to reimbursement for his traveling or other expenses while employed on the business of the board.

§ 23. The regents shall, when they shall be in possession of funds for that purpose, organize and put into operation the first year's course of instruction in as many of the said colleges as possible. If the buildings of the university are not sufficiently completed at that time to be occupied for that purpose, the regents are authorized to make temporary arrangements for sufficient buildings, the use of apparatus and for other needful purposes, in the city of Oakland, if the same shall be practicable.

§ 24. The collections by the state geological survey shall belong to the university, and the regents shall, in their plans, have in view the early and

secure arrangement of the same for the use of the students of the university, and of giving access to the same to the public at large and to visitors from abroad; and shall in every respect, by acts of courtesy and accommodation, encourage the visits of persons of scientific tastes and acquirements from other portions of the United States and of other countries, to California. The said collections shall be arranged by the resident professors of the university in a separate building, which shall be denominated the "Museum of the University." To this museum shall also be added, as fast as the means of the university shall permit, collections of agricultural implements, and objects illustrative of the mechanic arts, science, architecture and the fine arts. The collection of a library shall be commenced at once, and increased and expanded as fast as the board of regents are placed in possession of funds for that purpose. But the board of regents may allow duplicates to be taken from said collections of the state geological survey and made a part of some other museum under the care of an incorporated academy of science, which shall become responsible for the custody and return of the same.

§ 25. The regents shall devise, and cause to be constructed, such buildings as shall be needed for the use of the University of California. Such a plan shall be adopted that separate buildings may be constructed and set aside for separate uses, yet such buildings shall be grouped upon a general plan so that such buildings may harmonize therewith, and be a part of one design. The construction and equipment of the buildings shall in every instance be let upon specifications and advertisement of not less than ten days in at least two daily newspapers of the city and county of San Francisco, to the lowest responsible bidder upon sealed proposals. The regents may require adequate security from all bidders, and shall have power to reject any and all bids and advertise anew. They shall take measures for the immediate and permanent improvement of the grounds of the university, and may make such contracts therefor, or for any part thereof, as they may deem advisable. The provisions of all acts for the erection of state buildings, or the improvement of state grounds, in conflict with this act, shall not apply to the grounds and buildings of the University of California. [Amendment, Stats. 1897, 57.]

§ 26. An act entitled an act to establish an agricultural, mining and mechanical arts college, approved March thirty-first, eighteen hundred and sixty-six, and all acts or parts of acts inconsistent with this act, are hereby repealed, so far as they conflict with the provisions of this act. But the board of directors of the agricultural, mining and mechanic arts college of this state are authorized and directed to transfer and convey all its property real and personal, and all its effects, rights and interests of property, to the regents of the University of California; and said regents may accept and take possession of said property, and may, if they approve the same, ratify and confirm any contracts, executed or unexecuted, made by said directors; and for the purpose of carrying out the purposes of this section said directors are continued in office until the powers herein conferred shall be duly executed.

§ 27. This act shall take effect immediately from and after its passage.

By § 9 of art. IX of the constitution of 1879, it is declared that the university shall constitute a public trust, and that its organization and government shall be perpet-

ually continued in the form and character prescribed by the organic act creating the same (see ante p. 1435), and the several acts amendatory thereof, subject only to

such legislative control as may be necessary to insure compliance with its endowments, and the proper investment and security of its funds, etc.

The university forms the subject of chapter I of title III of Pol. Code (§§ 1385-1477, inclusive), which was adopted subsequent

to the creative act of 1867-8, and the "endowment" act of 1869-70. Owing to the above language of the constitution, those acts have been here inserted.

For aid, appropriations, and endowment, see next following several statutes.

UNIVERSITY OF CALIFORNIA—APPROPRIATIONS.

Making an appropriation of fifty thousand dollars for the use and benefit of the University of California, directing the special purpose therefor, and prescribing the duties of the controller and treasurer in relation thereto.

(Stats. 1901, 110, ch. XCVI.)

Whereas, By the terms of an act of Congress approved the second day of July, anno Domini eighteen hundred and sixty-two, granting certain public lands to the several states and territories of the United States to provide a perpetual fund for the endowment, support and maintenance of colleges, it was prescribed that the capital thereof shall remain forever undiminished, and further that if any portion thereof should in any event be lost, the state to which it belongs shall replace the amount, so that the capital of the fund shall remain forever undiminished; and

Whereas, William C. Turner, late of Merced, California, did in his lifetime borrow from the regents of the University of California, a beneficiary of the act of Congress, aforesaid, the sum of forty-seven thousand (\$47,000) dollars, money of the perpetual fund provided for the University of California by the said act of Congress, and a loss or diminution of the perpetual fund may by possibility result therefrom; now, therefore,

§ 1. The sum of fifty thousand (\$50,000) dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the use, benefit, maintenance, and support of the University of California. The sum hereby appropriated shall be in addition to all other sums of money provided for the use of the University of California; but in the event any diminution of the perpetual endowment fund of the University of California results from the loan to William C. Turner, above mentioned, or loss is caused thereby, the money hereby appropriated, or so much thereof as shall be necessary therefor, shall be used by the regents of the University of California to make good such diminution or loss, and the residue only shall be put into the university fund; but in the event no loss or diminution arises from the loan to William C. Turner, aforesaid, then the whole of the money hereby appropriated shall be paid into the university fund.

§ 2. The controller is authorized and directed to draw his warrant for the sum hereby appropriated, payable to the treasurer of the University of California, and the treasurer of state is directed to pay the same.

§ 3. This act shall be in effect from and after its passage.

UNIVERSITY OF CALIFORNIA.

To provide a continuous appropriation for the support and maintenance of the University of California, to be an item in the general appropriation bill.

(Stats. 1901, 307, ch. CXLIII.)

§ 1. It is hereby declared that it is necessary and expedient for the state of California to provide a permanent increase of the funds of the University of California.

§ 2. In addition to all other sums of money or funds provided for the support and maintenance of the University of California, and commencing with the fifty-fifth fiscal year, there shall be an appropriation biennially of the sum of two hundred thousand (\$200,000.00) dollars therefor, which sum shall be carried into the general appropriation bill as are the items of appropriation for other state institutions, and be an item thereof.

UNIVERSITY OF CALIFORNIA.

To provide additional support and maintenance, and for the acquisition of necessary property and improvements for the University of California, by the levy of a rate of taxation, and the creation of a fund thereof.

(Stats. 1897, 44, ch. XLVIII.)

§ 1. In addition to all other sources and means of support, maintenance, advantage, and improvement of the University of California, there is hereby levied, annually, for each fiscal year an "ad valorem" tax of one cent upon each one hundred dollars of value of the taxable property of the state, which tax shall be collected by the several officers charged with the collection of state taxes, in the same manner and at the same time as other state taxes, are collected, upon all or any class of property; which tax is for the use and support of the University of California.

§ 2. The state board of equalization, at the time when it annually determines the rate of state taxes to be collected, must at the same time declare the levy of said rate of one cent, and notify the auditor and board of supervisors of each county thereof.

§ 3. The money collected from said rate, after deducting the proportionate share of expenses of collecting the same to which other state taxes are subject, must be paid into the state treasury, and be by the state treasurer converted into the "State University Fund."

§ 4. The money paid into the said "State University Fund" is hereby appropriated, without reference to fiscal years, for the use and support of the University of California, and is exempted from the provisions of part three, title one, article eighteen, of an act entitled "An act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, relating to the board of examiners. When there is any money in said fund, the same may be drawn out upon the order of the board of regents of the University of California, or such officers of the board as may be duly authorized thereto. Upon the receipt of the order, the controller must draw his warrant upon the state treasurer, payable to the order of the treasurer of the University of California, out of said "State University Fund," and said treasurer must pay the same.

§ 5. The money derived from said fund must be applied only to the uses and purposes of the University of California, and the board of regents must include in its biennial report to the governor a statement of the manner and for what purposes the money was expended; provided, that not less than one half

of the revenues raised hereunder, during the first ten fiscal years after this act takes effect, shall be devoted solely to the purposes of acquiring lands, buildings, and permanent improvements for the university.

§ 6. This act shall take effect immediately.

In re Estate Royer, 123 Cal. 614, 623, 56 Pac. Rep. 461, 44 L. R. A. 364.

UNIVERSITY OF CALIFORNIA.

To consolidate certain funds and to create therefrom a permanent endowment for the University of California, of which the interest only shall be used by the board of regents to meet current expenses.

(Stats. 1877-8, 337, ch. CCLXXVII.)

§ 1. That the entire principal sums which have been or may be hereafter realized from the several sources of income and endowment funds of University of California, to wit, the principal sum derived from the sale of lands granted to the state of California by act of Congress, approved July second, eighteen hundred and seventy-two, and amendments thereto, and the principal sum derived from the sale of the seventy-two (72) sections of land granted to the state of California for the use of a seminary of learning by act of Congress, approved March third, eighteen hundred and fifty-three, and the principal sum derived from the sale of the ten (10) sections of land granted to the state of California for public buildings, by said act of Congress, approved March third, eighteen hundred and fifty-three, and the principal sum which the treasurer of the state of California was directed, by act of the legislature, approved April second, eighteen hundred and seventy, to place to the credit of the university fund, and which, being invested in the bonds of the state, or of the United States, should yield an annual income of fifty thousand dollars, and the principal sum now remaining on hand derived from the sale of the real estate in Oakland, Alameda County, and state of California, known as the "Brayton property," shall be from time to time as the same is realized, invested in stocks of the United States or of the state, or other safe stocks or bonds, yielding not less than five (5) per centum upon the par value of said stocks or bonds, and the money so invested shall constitute a perpetual fund, to be known and designated as the "Consolidated Perpetual Endowment Fund of the University of California," the capital of which shall remain forever undiminished; provided, that any moneys realized from said sources of income or endowment funds, or either of them, which have been heretofore invested according to law, may remain so invested; and it is further provided, that all such stocks and bonds as aforesaid shall be deposited in the state treasury to the credit of said fund, and shall be kept separate and apart from all other funds by the state treasurer, who shall pay over from time to time all interests, profits, income, or revenue arising from such stocks or bonds, to the treasurer of said university upon the demand or order of the regents of the university.

§ 2. That all interests, profits, or revenue arising from or growing out of the said "Consolidated Permanent Endowment Fund of the University of California" shall be placed in the general fund of the university, and subject to disbursement to meet the current annual expenses of the University of California.

§ 3. That all acts or parts of acts in conflict herewith are hereby repealed.

In re Estate Royer, 123 Cal. 614, 619, 56 Pac. Rep. 461, 44 L. R. A. 364.

The statute 1881, 51, ch. L, made an appropriation of forty-seven hundred and eighty-five dollars annually to represent

interest on a sum of over seventy-nine thousand dollars, said to have been improperly drawn from the resources of the university. This is however repealed by § 6 of Stats. 1893, 75, ch. LXV, post.

UNIVERSITY OF CALIFORNIA.

To provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor.

(Stats. 1887, 2, ch. III.)

§ 1. There is hereby levied, annually, for each fiscal year, an "ad valorem" tax of one cent upon each one hundred dollars of value of the taxable property of the state, which tax shall be collected by the several officers charged with the collection of state taxes, in the same manner and at the same time as other state taxes are collected, upon all or any class of property, which tax is for the support of the University of California.

§ 2. The state board of equalization, at the time when it annually determines the rate of state taxes to be collected, must at the same time declare the levy of said rate of one cent, and notify the auditor and board of supervisors of each county thereof.

§ 3. The money collected from said rate, after deducting the proportionate share of expenses of collecting the same to which other state taxes are subject, must be paid into the state treasury, and to be by the state treasurer converted into a separate fund, hereby created, to be called the "State University Fund."

§ 4. The money paid into the said "State University Fund" is hereby appropriated, without reference to fiscal years, for the use and support of the University of California, and is exempted from the provisions of part three, title one, article eighteen, of an act entitled "An act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, relating to the board of examiners. When there is any money in the said fund, the same may be drawn out upon the order of the board of regents of the University of California, or such officers of the board as may be duly authorized thereto. Upon the receipt of the order, the controller must draw his warrant upon the state treasurer, payable to the order of the treasurer of the University of California, out of the said "State University Fund."

§ 5. The money derived from said fund must be applied only to the support and permanent improvement of the university, and the board of regents must include in its biennial report to the governor a statement of the manner and for what purposes the money was expended.

§ 6. This act takes effect immediately.

UNIVERSITY OF CALIFORNIA—FORESTRY.

To repeal an act entitled "An act to create a state board of forestry, and to provide for the expenses thereof," approved March third, eighteen hundred and eighty-five, and the act amendatory thereof, approved March seventh, eighteen hundred and eighty-seven, and to make an appropriation for the maintenance and preservation of the property of the board of forestry.

(Stats. 1893, 229, ch. CLXXXVII.)

§ 1. An act entitled "An act to create a state board of forestry, and to provide for the expenses thereof," approved March third, eighteen hundred and eighty-five, is hereby repealed.

§ 2. All the real and personal property of the said board, on or before the first day of July, eighteen hundred and ninety-three, shall be assigned, made over, and transferred to the agricultural department of the University of California.

§ 3. There is hereby appropriated the sum of four thousand dollars out of any money in the state treasury not otherwise appropriated, payable to the agricultural department of the University of California, for the support, maintenance, and preservation of the experimental stations of the state board of forestry, and the controller is hereby directed to draw his warrant for the same.

§ 4. This act shall take effect from and after July first, eighteen hundred and ninety-three.

UNIVERSITY OF CALIFORNIA—FORESTRY STATION.

Authorizing the board of regents of the University of California to exchange the tract of land now constituting the Santa Monica Forestry Station.

(Stats. 1905, 369, ch. CCCXII.)

§ 1. The board of regents of the University of California are hereby authorized to exchange the tract consisting of twenty (20) acres of land, at present constituting the Santa Monica Forestry Station, for another larger and more advantageously situated tract if in the judgment of the said board and of the governor of the state such exchange shall better serve the purposes for which said station was originally established.

§ 2. The secretary of state is hereby authorized on behalf of the state of California to deed the tract at present constituting the Santa Monica Forestry Station to the party or parties owning the land selected for exchange by said board, provided that such parties shall previously give a good and lawful deed vesting the title to such lands as have been selected as a desirable equivalent for the present station tract, in the board of regents of the University of California, and provided further that such deed shall be given only after the secretary of said board shall have certified that such conditions as may be necessary to insure the integral transfer of the tree species now growing at the Santa Monica Forestry Station have been fulfilled.

§ 3. After ninety (90) days following the passage of this act the board of regents of the University of California may proceed to consider such offer or

offers of exchange as shall have been made, provided lands so offered shall lie within the climatic conditions of the southern coast belt.

§ 4. After the said board of regents have considered any offers of exchange as shall come before them within the time specified, they shall report to the governor of the state the results of their deliberations. If an exchange is agreed upon the governor shall instruct the secretary of state to draw and deliver the deed of the said station tract in accordance with section two of this act; provided that such action shall be taken within six (6) months from and after the date of the passage of this act.

UNIVERSITY OF CALIFORNIA—HASTINGS COLLEGE OF THE LAW.

To create Hastings College of the Law in the University of California.

(Stats. 1877-8, 533, ch. CCCLI.)

§ 1. That S. C. Hastings be authorized to found and establish a law college, to be forever known and designated as "Hastings College of the Law." That the officers of said college shall be a dean, registrar, and eight (8) directors. That the directors shall be Joseph P. Hoge, W. W. Cope, Delos Lake, Saml. M. Wilson, O. P. Evans, Thos. B. Bishop, John R. Sharpstein, and Thos. I. Bergin, of the bar association of the city of San Francisco, who shall, when vacancies occur, fill the same from members of said association or otherwise, and shall always provide for filling a vacancy with some heir or some representative of the said S. C. Hastings. That the dean and registrar shall be appointed by the directors.

§ 2. Said college shall affiliate with the university of the state, upon such terms as shall be for the welfare of the college and university, and shall be the law department of the university.

§ 3. The faculty of the university shall grant diplomas to the students of the college, and the president shall sign and issue the diplomas.

§ 4. There shall be set apart for the use of the students of the college some room or suitable hall at the university, and the board of supervisors of the city of San Francisco is authorized to supply a suitable hall in the city of San Francisco for the students and directors.

§ 5. The dean of said college shall be ex officio of the faculty of the university, to be designated as such by the directors of the college.

§ 6. The diploma of the students shall entitle the student to whom it is issued to a license, to practise in all the courts of this state, subject to right of the chief justice of the state to order an examination, as is in ordinary cases of applicants without such diploma.

§ 7. This act is passed upon the condition that said S. C. Hastings shall pay into the state treasury the sum of one hundred thousand dollars, and is never to be refunded except as hereinafter provided.

§ 8. The sum of seven per centum per annum upon one hundred (\$100,000) thousand dollars is to be appropriated by the state and paid in two semiannual payments to the directors of the college.

§ 9. The business of the college shall be to afford facilities for the acquisition of legal learning in all branches of the law, and to this end shall establish a cur-

riculum of studies, and shall matriculate students who may reside at the university of the state as well as students residing in other parts of the state.

§ 10. Professorships may be established in the name of any founder of such professorships who shall pay to the directors the sum of thirty (\$30,000) thousand dollars.

§ 11. All the business of the college shall be managed by the directors without compensation, and all acting officers, including the dean and registrar, shall be appointed by the directors and removed by them.

§ 12. The Law Library Association, of the city of San Francisco, shall grant to the students the use of their library upon such terms and conditions as they may agree with the directors of the college.

§ 13. The object of this act being to grant a perpetual annuity for the support and maintenance of said college, should the state, or any government which shall succeed it, fail to pay to the directors of said college the sum of seven per centum per annum, as above stipulated, or should the college cease to exist, then the state, or its successor, shall pay to the said S. C. Hastings, his heirs or legal representatives, the sum of one hundred (\$100,000) thousand dollars and all unexpended accumulated interest; provided, that such failure be not caused by mistake or accident, or omission of the legislature to make the appropriation at any one session.

§ 14. That the chief justice of the supreme court of the state (or if there be no such judicial officer of the state or government) shall be the president of the board of directors, five of whom shall be a quorum to transact all business.

§ 15. This act shall take effect and be in force from and after its passage.

Foltz vs. Hoge, 54 Cal. 28, 31; People ex rel. Hastings vs. Kewen, 69 Cal. 215, 216, 10 Pac. Rep. 393.

The legislature attempted, by Stats. 1883, 26, and 1885, 203, to amend the foregoing statute in matters of organic importance, but those statutes are held unconstitutional

in People ex rel. Hastings vs. Kewen, 69 Cal. 215, 10 Pac. Rep. 393.

See §§ 276-280a, Code Civil Proc. (admission of attorneys).

See KERR'S CYC. CODE CIVIL PROC. §§ 276-280a (admission of attorneys).

UNIVERSITY OF CALIFORNIA—INSURANCE.

The insurance of the property of the university, held for purposes of income, is authorized by Stats. 1899, 152, ch. CXIX.

UNIVERSITY OF CALIFORNIA—INTEREST ON BONDS.

To provide for the payment of interest on the outstanding bonds of the state of California, held in trust for the university fund and the state school fund, and on the sum of seventy-nine thousand seven hundred and fifty dollars, diverted funds belonging to the endowment fund of the University of California, to repeal an act of the legislature of the state of California, approved March fourth, eighteen hundred and eighty-one, entitled "An act to appropriate money to reimburse the University of California, for moneys heretofore appropriated to the endowment fund thereof, which moneys have by mistake been withheld therefrom and appropriated to other state purposes," and making an appropriation to pay the interest on said outstanding bonds from January first to July first, eighteen hundred and ninety-three.

(Stats. 1893, 75, ch. LXV; amended 1899, 93, ch. LXXVII. Foregoing is title of act as amended by Stats. 1899, 93, ch. LXXVII.)

Whereas, There was on the first day of January, eighteen hundred and ninety-three, outstanding and unpaid two million five hundred and twenty-eight thousand five hundred dollars of funded debt bonds of eighteen hundred and seventy-three, issued by the state of California, bearing interest at the rate of six per centum per annum; and whereas, the people of the state of California, at the election held on the eighth day of November, eighteen hundred and ninety-two, refused to refund said bonds; and whereas, the whole of said bonds, excepting the sum of two hundred and fifty-one thousand dollars, are held by the state of California in trust as follows: For the support of the state school fund, one million five hundred and twenty-six thousand five hundred dollars, and for the university fund, in support of the state university, seven hundred and fifty-one thousand dollars; and whereas, the period for which said bonds were to run having expired, and the coupons originally attached thereto having been paid; and whereas, at the present session of the legislature a law has been passed providing for the payment and cancelation of the bonds held by private individuals in the sum of two hundred and fifty-one thousand dollars, together with interest thereon; and whereas, it has become necessary for the state to pay interest on the bonds so held in trust, or to pay said bonds in full, and there being no money in the state treasury to pay the same, or any part thereof; therefore

§ 1. The state of California hereby agrees to pay, and will pay, interest on said outstanding bonds so held in trust for the benefit of the state school fund and the university fund at the rate of six per centum per annum, payable semi-annually, from January first, eighteen hundred and ninety-three, on the second of January and July of each year, and the faith of the state of California is hereby pledged for the payment of the interest as herein provided.

§ 2. The state treasurer shall hereafter pay, semiannually, on the second of January and July of each year, to the University of California, the sum of twenty-four thousand nine hundred and twenty-two dollars and fifty cents, the same being the interest at the rate of six per centum per annum, on the outstanding bonds held by said university against the state, of the face value of seven hundred and fifty-one thousand dollars, and belonging to the endowment fund provided by Congress, to which is added the sum of seventy-nine thousand seven hundred and fifty dollars, also belonging to said endowment fund of said university, the interest on which has heretofore been provided for by the act of March fourth, eighteen hundred and eighty-one.

§ 3. The state treasurer shall also, as in the preceeding section, pay over, semiannually, as now required by law, for the support of the common schools of the state, the sum of forty-five thousand seven hundred and ninety-five dollars, the same being the semiannual interest, computed at the rate of six per centum per annum, due from the state on the bonds belonging to the common school fund, now held by the state treasurer, of the face value of one million five hundred and twenty-six thousand five hundred dollars.

§ 4. For the payment of the interest on said outstanding bonds so held in trust, and on said diverted funds, as herein provided, there shall be levied annually, by the state board of equalization, such rate of tax on each one hundred dollars of the assessed value of the real and personal property in the state, to be computed by the controller of state, on the basis of the assessed value of such

property for the preceding year, as shall produce annually the interest of such bonds and diverted funds provided to be paid in section[s] one, two, and three of this act. The state board of equalization shall certify the rate of tax thus computed to the several county auditors, and the said auditors are hereby directed and required to enter such rate on the assessment rolls of their respective counties, in the same manner and with the same effect as is provided by law in relation to other state taxes. Every tax levied under the provision or authority of this act is hereby made a lien against the property assessed, which lien shall attach on the first Monday in March of each year, and shall not be satisfied or removed until such tax has been paid or the property sold in satisfaction thereof. All moneys derived from taxes authorized by the provisions of this section shall be paid into the state treasury to the credit of the interest and sinking fund, and shall be applied to the payment of the interest as herein provided for; provided, that all the moneys remaining in the state treasury to the credit of said interest and sinking fund on the fifteenth day of July of each year, after the interest on such bonds so held in trust, and on said diverted funds, has been paid, shall be transferred by the treasurer of state, on the order of the controller of state, to the general fund. [Amendment, Stats. 1899, 93.]

[Amendatory act of 1899, 93, also contained the following section: "§ 3. The sum of sixteen thousand seven hundred and forty-seven dollars and fifty cents, now in the university fund and unavailable, is hereby appropriated to the uses of the University of California."]

§ 5. It shall be the duty of the state treasurer to pay the interest on said bonds so held in trust when the same falls due, out of said interest and sinking fund; provided, that the controller of state shall first draw his warrant on the treasury payable to the order of said state treasurer, for the amount of interest money about to become due, which said warrant shall be drawn at least one month previous to the maturing of the interest.

§ 6. The act of the legislature of the state of California, approved March fourth, one thousand eight hundred and eighty-one, entitled "An act to appropriate money to reimburse the University of California for moneys heretofore appropriated to the endowment fund thereof, which moneys have by mistake been withheld therefrom and appropriated to other state purposes," is hereby repealed.

§ 7. There is hereby appropriated out of any moneys in the general fund of the state treasury not otherwise appropriated, the sum of sixty-eight thousand three hundred and twenty-five dollars, to pay the interest on said outstanding bonds so held in trust, from January first to July first, one thousand eight hundred and ninety-three. It shall be the duty of the state treasurer to pay the interest on said bonds when the same falls due, out of the moneys hereby appropriated; provided, that the controller of state shall first draw his warrant on the state treasury, payable to the order of said state treasurer, for the amount of interest money about to become due, which said warrant shall be drawn at least one month previous to the maturing of the interest.

§ 8. This act shall take effect from and after its passage.

The amendatory act also amended the title of the Act of 1893, and amended § 4 of the act itself. The foregoing is the title and act as amended, including § 3 of the

amendatory act, appropriating sixteen thousand dollars, added.

By Stats. 1899-70, 646, ch. CCCCXIV, the legislature authorized the issuance of

twenty-year bonds, not exceeding three million and seven hundred thousand dollars. The proceeds from this bond issue were used for paying the prior outstanding bonds issued under acts of 1857 and 1860 respectively, and also outstanding soldiers' relief and soldiers' bounty bonds.—See *Bickerdike vs. State*, 144 Cal. 681, 695, 78 Pac. Rep. 270.

By Stats. 1873-4, 6, ch. IX, the state treasurer and governor were authorized to dispose of sixty-five thousand dollars of United States five-twenty bonds then being held for the benefit of the University of California, and to purchase therewith state-funded-debt bonds; and by Stats. 1873-4, 235, ch. CLXXI, the loan commissioners, created by the before-mentioned Act of

1869-70, were empowered to dispose of such bonds as were authorized to be issued under that act, and not exchanged for other bonds, or purchased for the university and school funds, in any manner they might deem best. It is understood that these are the bonds authorized to be purchased (and that they were purchased) under the above cited Act of 1873-4, 6, with funds arising from the sale of United States five-twenty bonds. These are the bonds referred to in the Stats. 1893, 75, as amended 1899, 93, and which precede this note.

The other outstanding bonds of the state of the issue of 1873-4, specifically referred to by number, were taken up under the Stats. 1893, 49, ch. XXXVI.

UNIVERSITY OF CALIFORNIA—LANDS.

Concerning the selection and sale of university lands.

(Stats. 1873-4, 356, ch. CCLVIII; amended 1880, 36, ch. XLIV.)

§ 1. In all cases where a contest shall arise between two or more persons concerning the right of such persons to purchase any portion of the one hundred and fifty thousand acres of land granted to the state for the use of an agricultural college, if either party shall demand a trial in the courts of the state, the land agent of the university, as the agent of the state, shall make an order, referring such contest to the superior court of the county in which the land involved is situated, and shall enter said order in the proper record-book of his office; provided, that the party making such demand shall prosecute his contest to judgment within six months from the date of such demand, unless for cause satisfactory to the court. Either party may bring an action in the superior court of the county in which the land in question is situated, to determine such conflict; and the proffer of a certified copy of the entry made by the said agent, shall give the said superior court full and complete jurisdiction to hear and determine said conflict; and upon the filing, with the said agent, of a copy of the final judgment of said court, he shall issue the certificate of purchase, or other evidence of title, in accordance with the said final judgment. [Amendment, Stats. 1880, 36.]

§ 2. Whenever any resident of this state desires to purchase any part of the one hundred and fifty thousand acres of land granted to the state for the use of an agricultural college, he or she shall make an affidavit before any officer authorized to administer oaths, that he or she is a citizen of the United States (or, if a foreigner, then that he has filed his intention of becoming a citizen), a resident of the state, of lawful age, that he or she desires to purchase said land, giving a description thereof by legal subdivisions, and that there are no improvements of any kind on said land other than those of the applicant; or if there be improvements other than his own, then he or she shall state that such improvements are the property of (giving his or her name), and have been upon the land for three months or over, and that the township has been sectionized and the plats of survey filed in the land office of the district in which the land is located, for three months or over, which application shall be forwarded to the said land agent of the university.

§ 3. This act shall be in force from and after its passage.

Stats. 1873-4, 356.—Cushing vs. Keslar, 68 Cal. 473, 475, 9 Pac. Rep. 659; White vs. Douglass, 71 Cal. 115, 121, 11 Pac. Rep. 860; In re Estate Royer, 123 Cal. 614, 619, 56 Pac. Rep. 461, 44 L. R. A. 364.

UNIVERSITY OF CALIFORNIA—MEDICAL DEPARTMENT.

Concerning the medical department of the University of California.

(Stats. 1881, 24, ch. XXXIII.)

§ 1. The medical department of the University of California shall hereafter be known and designated as the "Toland" Medical Department of the University of California, and all degrees, diplomas, scholarships, and records of the said department shall be made out and all proceedings in connection therewith shall be conducted in and by such name and designation.

§ 2. This act shall take effect from and after its passage.

UNIVERSITY OF CALIFORNIA—PATHOLOGY.

Providing for the establishment and maintenance of a pathological laboratory, for the investigation of tree and plant diseases and pests, and branch agricultural experiment station, and making an appropriation therefor.

(Stats. 1905, 249, ch. CCLXXVIII.)

§ 1. There shall be established at a point and by means hereinafter provided a scientific station or laboratory with the necessary grounds and buildings; this laboratory shall be equipped with the material and appliances necessary for the study and determination of the cause of diseases and conditions of orchard trees, fruits and vegetables and shall provide the means for a thorough examination of fungus, bacterial, and other maladies, insects, pests, and diseases, and their remedy or prevention, the condition of the soil, cultivation and location that may tend to the imperfect nutrition and all physiological and other defects that may affect the economic production and marketing of horticultural products.

§ 2. The location of such pathological laboratory shall be in one of the seven southern counties of the state of California, to be selected by a board of three commissioners hereby created, consisting of the governor of the state, the president of the University of California and the professor of agricultural practice of the University of California, and said board of commissioners is hereby authorized and empowered to select such location, perfect the title thereof in the name of the board of regents of the University of California and do such other acts as may be necessary to make legal the expenditure of the funds required by the purpose of this act; provided that said location may, at the option of the board of commissioners, be on lands already belonging to the state of California at Whittier or Patton.

§ 3. When the title to the necessary lands has been perfected by the commission named in section two the regents of the University of California shall proceed to the construction of a building suitable for the protection and use of the laboratory, shall equip the laboratory and maintain it for the purposes designated in the title of this act, and may receive, manage, use and hold gifts, leases, and bequests for promoting the purposes of this act.

§ 4. The board of regents or the president of the University of California, if the regents so authorize, shall select not less than two experts in plant pathology, and such assistants as may be needed, who shall have active charge of the laboratory and the investigations and field experiments, and who shall reside at or near the said laboratory and give their entire time to the investigations required by the board of regents or their representative, and may from time to time publish the results of their inquiries and discoveries; the said board of regents shall fix the salaries of employees and provide for contingent expenses.

§ 5. Said commissioners shall also establish and maintain a branch agricultural experiment station or stations under the provisions of this act within the territory described in section two of this act for the purpose of carrying on experimental and investigational work in connection with the agricultural experiment work of the University of California in ascertaining the best methods of horticultural management; for the investigation of fertilization; for the investigation of irrigation; for improving the methods of handling fruits for market; for the introduction of new varieties of fruits and for such other investigations as may be deemed advisable to promote the horticultural interests of said district. Said commissioners may lease or accept gifts of lands for said purpose and may select for the location of said station or stations any lands owned by the state in said district provided that should such station or stations be located upon lands owned by the state at Whittier Reform School at Whittier or the Southern California State Hospital at Patton they shall not embrace in the aggregate more than fifty acres. Said land shall be supplied with sufficient water for the proper irrigation of the same in any case.

§ 6. The regents of the University of California are required to adopt a general plan and schedule before the beginning of each fiscal year which shall describe the investigations and experiments to be pursued during such fiscal year, and it shall be the duty of the board of regents to receive and consider written statements from individuals and associations interested in said branches of horticulture, conveying plans or suggestions for investigations which they may approve or desire.

§ 7. The sum of thirty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to be expended by the regents of the University of California in carrying out the purposes of this act, and the state controller is hereby authorized and directed to draw his warrant for the same payable to the regents of the University of California and the treasurer of the state is hereby directed to pay such warrant.

See KERR'S CYC. POL. CODE § 4080. See tit. Trees.

UNIVERSITY OF CALIFORNIA—PEAR BLIGHT, ETC.

To provide for an investigation of the nature of the diseases known as pear blight and walnut blight and to prevent, eradicate, and procure a cure for the same and to cause to be prosecuted experimental and research work in the field of viticulture, directing publication of the results of such experiments and investigations, making an appropriation therefor and prescribing the duties of the controller and treasurer in relation thereto.

(Stats. 1905, 124, ch. CXXII.)

§ 1. The regents and the president of the University of California are hereby directed to cause to be prosecuted with all possible diligence, in connection with and in addition to the work heretofore carried on by the agricultural experiment station, experimental and research work in the field of viticulture, including both cultural and industrial processes. They are directed to ascertain the adaptation of the various kinds of vines to the several climatic and soil conditions of the state, with the special reference to those stocks for propagating purposes, resistant to the phylloxera, and to further their adaptability and utility as grafting stocks for producing wine, raisin and table grapes. They are directed to ascertain the best methods of grafting and propagating said stocks and vines together with the most important methods of vinification and preparation, manufacture and application of yeasts in vinification and distillation. They are further directed to report upon the utilization of the by-products of the vineyard and winery, the study and treatment of the vine diseases, and all matters appertaining to the viticultural industry pertinent to the successful conduct of the business and that may be of general public interest, use and profit. They are further directed to publish the result of said experiments and investigations in form of bulletins from time to time, as may seem advisable and not less than two bulletins showing the progress and result of the work, shall be issued in any fiscal year.

And they are further directed to inaugurate an investigation of the cause, nature, and means of suppression or prevention, of the so-called pear blight, a destructive, infectious disease of pear and apple trees. For such investigation, said director shall obtain and establish such assistants, equipment, materials, appliances, apparatus and other incidentals as may be necessary to the successful prosecution of the work, within the appropriation specified.

And they are further directed to secure a remedy for the so-called walnut blight. The said regents are hereby authorized to employ an expert and if necessary, to send him abroad to ascertain the cause of this blight and in an endeavor to secure a remedy therefor.

§ 2. There is hereby appropriated for the use of said experiment station, for the purposes set forth in this act, the sum of twenty thousand dollars (\$20,000).

§ 3. All money appropriated under this act shall be paid to the regents of the University of California, and expended under the direction of the director of the agricultural experiment station of said university for the specific purposes herein named.

UNIVERSITY OF CALIFORNIA.

See tits. **Agriculture; Analysis of Waters, Minerals, Etc.; State Debt; State Geological Survey.**

VACCINATION.

See tit. **Health—Public.**

VALLEJO—CITY OF

See tit. **Municipal Corporations.**

VEGETABLES—PESTS AND DISEASES OF.

See tit. Horticulture.

VENTILATION.

See tits. Coal Mines; Lodging-Houses.

VENTURA COUNTY.

To create the county of Ventura, to establish the boundaries thereof, and to provide for its organization.

(Stats. 1871-2, 484, ch. CCCLI; amended 1873-4, 365, ch. CCLXIX.)

§ 1. There shall be formed out of the eastern part of Santa Barbara County a new county, to be called Ventura.

§ 2. The boundaries of Ventura County shall be as follows: Commencing on the coast of the Pacific Ocean, at the mouth of the Rincon Creek; thence following up the center of said creek to its source; thence due north to the northern boundary line of Santa Barbara County; thence in an easterly direction along said boundary line of Santa Barbara County to the northeast corner of the same; thence southerly along the line between the said Santa Barbara County and Los Angeles County to the Pacific Ocean and three miles therein; thence in a northwesterly direction to a point due south of and three miles distant from the center of the mouth of Rincon Creek; thence north to the point of beginning, and including the island of Anacapa and San Nicholas.

§ 3. The seat of justice shall be at the town of San Buenaventura until otherwise provided by law.

* * * * *

The provisions of this statute relating to the officers to be elected therein, and the manner of organizing the county, are so clearly superseded by subsequent legislation, particularly by provisions of the

County Government Act and the constitution, as to the courts, elections, and terms of office, that it seems superfluous to insert them in this publication; they are accordingly omitted.

VETERANS' HOME—EXCHANGE OF LANDS.

To authorize and provide for the transfer of the Veterans' Home of California, its property, management, control and support to the government of the United States, its officers and authorities, to be conducted as a national home under such laws as now exist or which may hereafter be enacted by Congress; and for the conveying of the property of said home, both real and personal, belonging to the state of California, situate in Napa County, to the government of the United States, for such purpose.

(Stats. 1905, 495, ch. CCCLXXXVII.)

§ 1. Upon the enactment of appropriate legislation by Congress providing for the taking over of the property, real and personal, of the Veterans' Home of California, belonging to the state of California, situate in Napa County and described in that certain act entitled "An act to accept from the Veterans' Home Association the conveyance of and to vest the title in the state of California to the tract of land in Napa County known as the Veterans' Home, with the improvements and furnishings thereon, to make the same a state home for United

States soldiers, sailors and marines, and to provide for the government thereof by the state" approved March eleventh, eighteen hundred and ninety-seven; and such other property and lands as the state of California, for said home, may have since acquired; and providing for the management, control, conduct and support thereof by the government of the United States as a national home; the board of directors of the Veterans' Home of California may, and it is hereby authorized to, convey all the property of said home, belonging to the state of California, both real and personal, to the government of the United States, or to its officers, and to transfer to the government of the United States, its officers, the conduct, control, management and support thereof.

§ 2. A deed, duly executed by the president of the board of directors of the Veterans' Home of California, thereunto duly authorized by said board, shall pass and vest title to said property in the government of the United States.

§ 3. Upon the assumption of the conduct, control, management and support of said home by the government of the United States, its officers, the terms of all the officers of said home, and the terms of employment of all its employees, shall expire, and their salaries and wages shall cease, except the terms of the board of directors, its president and vice-president, which shall continue for the period of six months thereafter and therefrom.

§ 4. Before the terms of the members of the board of directors shall expire, as provided in section three of this act, the said board shall make its report to the governor of the state of California, in the manner provided for the annual report in that certain act heretofore in this act referred to; and shall turn over to the treasurer of the state of California all moneys belonging to said home, or to said state, except all moneys held by said board as pension moneys, which shall be returned to the respective pensioners who may be alive, and in case of their death, then to the officers or managers of the national home, taking over the management of said home, to be distributed by them in accordance with the present laws, rules and regulations of said Veterans' Home of California.

§ 5. The board of directors of the Veterans' Home of California is hereby authorized and empowered to do and perform all acts which are or may be necessary in law or otherwise.

§ 6. This act shall take effect and be in force in thirty days after its passage.

VETERANS' HOME—YOUNTVILLE—APPROPRIATION FOR.

To amend section one of an act entitled "An act to amend section one of an act approved March twentieth, eighteen hundred and ninety-nine, entitled 'An act to amend an act entitled "An act to amend an act approved February twenty-eighth, eighteen hundred and eighty-seven, entitled 'An act to amend an act to appropriate money for the support of aged persons in indigent circumstances residing in the Home of the Veterans' Home Association, approved March seventh, eighteen hundred and eighty-three,' providing for an increase in the annual appropriation thereof," and changing the time for the payment thereof,' approved March twenty-third, eighteen hundred and ninety-three, reducing the amount of such appropriation per capita," approved March twelfth, nineteen hundred and one, by providing for a

fixed annual appropriation of sixty-five thousand dollars in the place and stead of seventy-five dollars per annum for each and every aged and indigent United States ex-soldier, sailor or marine admitted to or residing at said home.

(Stats. 1905, 191, ch. CXC VII.)

§ 1. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the support and maintenance of the Veterans' Home of California, located at Yountville, Napa County, state of California, the sum of sixty-five thousand dollars per annum for each and every year hereafter.

§ 2. This act shall take effect and be in force on and after its passage.

The state had made appropriations in aid of the "Veterans' Home Association," beginning with Stats. 1883, 55, ch. XXXI, and up to the enactment of the foregoing statute.

By Stats. 1889, 418, ch. CCLXVIII, the "Home" was recognized as a "state home," to entitle it to receive moneys appropriated by Congress for such institutions. The appropriation Act of 1883 was amended, 1887, 6, ch. X; 1893, 214, ch. CLXXIX; 1899, 147, ch. CXI; 1901, 270, ch. CXV; and by Stats. 1895, 26, ch. XVII, the state treasurer was directed to turn over to the treasurer of the "Home" moneys received for its benefit through acts of Congress.

By Stats. 1891, 184, ch. CXXXVIII, the

Veterans' Home Association was authorized to exchange with the city and county of San Francisco certain lands there situate. The various appropriations for hospitals and other purposes are not here noted.

The Stats. 1905, ch. CXC VII, appropriates the sum of sixty-five thousand dollars annually for the support of the "Home," thus amending § 1 of the original Act of 1883 as amended by subsequent acts heretofore noted.

The Statute of 1883, here noted, seems inapplicable for any purpose since the "Home" has become a state institution.—See next following statute, by which it is governed.

VETERANS' HOME.

To accept from the Veterans' Home Association the conveyance of, and to vest the title in the state of California, to the tract of land in Napa County known as the Veterans' Home, with the improvements and furnishings thereon, to make the same a state home for United States soldiers, sailors, and marines, and to provide for the government thereof by the state.

(Stats. 1897, 106, ch. CI; amended 1903, 321, ch. CCXLIII; 1905, 471, ch. CCCLXXIII.)

§ 1. The state of California accepts from the Veterans' Home Association, a private corporation, and for the purposes of a home for aged and indigent ex-soldiers, sailors, and marines of the United States army, a conveyance of the following described real estate, with all the improvements thereon and appurtenances thereto belonging, and the personal property connected therewith, situate in Napa County, state of California, to wit: Commencing at a point in the center of the county road leading from Napa City to Yountville, from which point a stone in the center of said road bears north thirty degrees west fifteen (15) links, distant, said stone being sixty and eight one hundredths (60.08) chains southerly from the intersection of said road with the south line of lands formerly belonging to George C. Yount and granted to him by the Mexican government, and running thence south thirty degrees east, thirty-three and eighty-five one hundredths (33.85) chains to a point in the center of the above-mentioned road from which a white oak thirty inches in diameter bears north eighty-seven degrees east one and eighteen one hundredths (1.18) chains

distant; thence south fifty-nine degrees west seventy-eight (78) chains and eight (8) links; thence north thirty degrees west about thirty-five (35) chains to the southerly line of the one hundred (100) acre tract commonly known as the Jessee one hundred (100) acre tract, thence south fifty-nine degrees west to the south-westerly corner of said Jessee tract, thence north thirty degrees west to the western line of the land granted by the Mexican government to Salvador Vallejo; thence north fourteen degrees east along said grant line to where said grant line intersects the northerly line of said Jessee tract, thence in the northerly line of said Jessee tract north fifty-nine degrees east to the northeastern corner of said Jessee tract; thence south thirty degrees east about twenty-one chains to the northerly line of land conveyed by J. M. Harbin to W. S. Clark by deed dated June twenty-fifth, eighteen hundred and fifty-six, recorded in liber "C" of deeds, page five hundred and nineteen, records of Napa County; thence in a northerly line of said last-mentioned tract north fifty-nine degrees east three and ninety-three one hundredths (3.93) chains to a stake in a mound of stones; thence south twenty-two and one half degrees east four and seventy-two one hundredths (4.72) chains to a post in a mound of stones from which a large spring bears north six and three fourths degrees, west fifty-nine (59) links distant; thence north sixty-seven and one half degrees east two and sixty-two one hundredths (2.62) chains to a post in a mound of stones; thence north twenty-two and one half degrees west four and eighty-eight one hundredths (4.88) chains to a point, which point is south thirty degrees east fifteen (15) links distant from the said northerly line of said tract of land conveyed by J. M. Harbin to W. S. Clark by deed dated June twenty-fifth, eighteen hundred and fifty-six, as aforesaid, and thence parallel with and fifteen (15) links distant from said line thirty-three and twenty-seven one hundredths (33.27) chains to the point of beginning.

Also, that certain other tract of land adjoining the above-described tract on the southwest and described as follows:

Commencing at the western corner of Hiram Smith's tract of forty acres, and running north seventy-six degrees west to the western line of Salvador Vallejo's grant, thence with said line north fourteen degrees east to a point where the southern line of the above-mentioned Jessee one hundred acre tract intersects said line; thence south, twenty-nine degrees and thirty minutes east eleven and three one hundredths (11.03) chains; thence north sixty degrees thirty minutes east ten (10) chains; thence south thirty degrees east sixty-three and thirty-five one hundredths (63.35) chains; thence north sixty-one degrees east eleven and ten one hundredths (11.10) chains; thence south twenty-nine degrees thirty minutes east thirty-four and sixty one hundredths (34.60) chains to said Smith's forty acre tract, and thence south sixty-one degrees west eleven and ten one hundredths (11.10) chains to the place of beginning. Also, all those certain tracts, pieces, and parcels of lands situate in said county and state, and described, according to the United States government surveys, as follows, to wit: Lots numbers one (1) and two (2), of section eleven (11), and lots numbers seven (7) and eight (8) and the northeast quarter of the southwest quarter of section two (2), in township number six (6) north, range number five (5) west, Mount Diablo meridian. Saving and excepting all such parts or portions of said lands as are held, used, or owned by the Napa Valley Railroad.

§ 2. Said property shall continue to be used as a home for aged and indigent United States ex-soldiers, sailors and marines. The home shall be a state home, under the exclusive management and control of the state, by a board of seven directors, to be appointed by the governor as follows: The terms of each of the present members of said board shall expire on the first day of July, nineteen hundred and five, and seven persons shall be appointed as their successors, four of whom shall be appointed for a term and period of four years, and the other three for a term and period of two years; and thereafter, as the terms of each of the members shall expire, their successors shall be appointed for a term and period of four years. In case of a vacancy occurring in said board of directors for any cause, the governor shall appoint to fill such vacancy for the such unexpired term. Provided, that nothing in this act shall prevent the state of California, upon appropriate legislation, from turning the property and management of said home over to the government of the United States for its control and management as a home of similar character. [Amendment, Stats. 1905, 471.]

§ 3. Each member of the board of directors shall within thirty days after his appointment take and file with the secretary of state the following oath of office:

“I do solemnly swear, (or affirm as the case may be), that I will support the constitution of the United States and the constitution of the state of California, and that I will faithfully discharge the duties of a member of the board of directors of the Veterans' Home of California, according to the best of my ability.” [Amendment, Stats. 1905, 471.]

§ 4. The board of directors shall be known by the name and style of “The Board of Directors of the Veterans' Home of California,” and by this name may sue and be sued in any of the courts of this state; and all property held by said board shall be in trust for the state and for the use and benefit of said home. The said board shall have power to manage said home, and administer its affairs, make by-laws for the government of the board, not in conflict with the general laws of the state, adopt rules and regulations for the government of said home, which rules and regulations shall conform, as near as possible, to the rules and regulations by which the United States Soldiers' Home, and branches thereof, are governed. The records, reports, and accounts kept by the board shall conform to the requirements of the board of managers of the National Home for Disabled Volunteer Soldiers. The board shall cause to be kept a full and correct record of their proceedings, which shall be open at all times to the inspection of any citizen desiring to examine the same. They shall keep the home open to inspection by the board of managers of the National Home for Disabled Volunteer Soldiers. They shall hold stated meetings, at the home quarterly, and as much oftener as in their judgment the business may demand. They shall hold at least one meeting at the office in San Francisco each month, and as often as may be necessary for the auditing of bills and the transaction of business pertaining to the home. A majority of the members shall constitute a quorum for the transaction of business. They shall appoint such subcommittees as in the judgment of the board will be necessary. They shall also cause to be kept a record to be called the “General Register,” in which shall be recorded the following, as to the applicants for admission: number, age, name, place of birth, occupation, date of admission, date of rejection, if not admitted, residence at

time of admission, length of residence in the state of California immediately prior to admission, residence at time of entering the service, date of enlistment, company, regiment, branch or arm of service, date of discharge, disease, wounds, or disability, married or single, pensioner or not, rate of pension, estate or income, fraternal society, if any, to which he belongs, date of discharge from home and reason therefor, place of and date of death and place of burial, and remarks.

§ 5. The board of directors appointed for the term beginning July first, nineteen hundred and five, upon qualifying, shall meet and organize by electing one of its members as president and one of its members as vice-president of said board, each of whom shall hold office for the term of two years, and their successors shall be elected in like manner every two years thereafter. The term of office and service of all the present officers and employees of said home shall expire and their salaries shall cease, on said first day of July, nineteen hundred and five. Said board of directors at its first meeting in July, nineteen hundred and five, shall elect a commandant, a secretary, a treasurer, a surgeon, an assistant surgeon, an adjutant, and a quartermaster and commissary, who shall reside at the home, none of whom shall be members of the said board of directors, each of whom shall hold office for the term of two years, from the first day of July, nineteen hundred and five, and their successors shall be elected in like manner every two years thereafter. All other employees of said home shall be appointed by the said board and their term of employment shall commence July first, nineteen hundred and five, to hold at the pleasure of the board. The board of directors shall have power to remove any officer elected by it, for cause, after a full and fair hearing before said board. All vacancies, whether occurring from death, resignation, or removal, shall be filled by said board of directors for the unexpired term. Before entering upon the discharge of their duties all the officers named above shall take the oath of office and each shall file with the board an undertaking in such an amount as the board may determine, and conditioned upon the faithful discharge of his duties. Said undertaking shall be signed and executed by two sufficient sureties to be approved by the said board, or may at the discretion of said board be the undertaking of some authorized surety company. The duties of all officers and employees appointed by the board shall be prescribed by the board, and the same may be changed from time to time by a majority vote of said board. The board shall fix the compensation of all its appointees and employees, and may change the same from time to time at its discretion. [Amendment, Stats. 1905, 471.]

§ 6. The board shall fix a schedule of wages by which the veterans, when able and desiring to do light work, may be employed. The board shall audit all claims for labor and supplies, legally chargeable against said home. They may likewise audit the expense of procuring the officers' bonds, if any such expense be incurred, and shall direct the payment of their salaries, and do all things necessary for the proper conduct of the business of maintaining said home.

§ 7. The board shall make a report before the first day of January of each year to the governor, containing a statement of all receipts and expenditures, the condition of the home, and the number of members received and discharged during the year ending the thirtieth day of June preceding, and such other matters touching upon the management, conduct, and interests of the home as they may deem proper, or as may be required by the governor.

The board shall also make such other reports, from time to time as the governor may require. All reports shall be verified by the oath of the president of the board, or in his absence by the vice-president, and shall be certified by the secretary of the board. [Amendment, Stats. 1905, 471.]

§ 8. All moneys received by the state from the federal government for the use of the home, together with all moneys appropriated by the state for the support and maintenance of said institution, shall be received by the state treasurer and placed to the credit of a fund, to be entitled "Fund for the Support and Maintenance of the Veterans' Home of California."

§ 9. All bills and charges against the board for supplies, salaries, or other expenses incurred by it, shall first be audited by said board and thereafter forwarded to the state board of examiners for their approval, and when approved by said board of examiners the controller shall immediately issue his warrant in payment thereof, which warrant shall be paid out of any moneys in said fund.

§ 10. All moneys received by the directors, or by any officer of the home, (except such as may be paid to them by the state for disbursements), including pension moneys belonging to the pensioners in the home, and all other trust moneys, shall be immediately paid over to the treasurer of the board. Upon the first day of each month the treasurer of the board shall forward to the state treasurer all moneys then in his possession as treasurer, except pension moneys, and other trust funds, the post fund, and the moneys hereinafter referred to as subject to their direct disbursement and designated as the "Emergency Fund," together with a statement of the source from which the same has been received. Said moneys shall be immediately deposited by the state treasurer to the credit of the fund hereinbefore designated as the "Fund for the Support and Maintenance of the Veterans' Home of California." Any balance of pension money held by the board, or under its authority, upon the death of the pensioner, shall be held as a trust to be paid by the board, directly and without probate, or by its order, to his widow, minor children or dependent mother or father, in the order named; and should no widow, minor child, or dependent parent be discovered within one year from the time of the death of the pensioner, said balance shall be paid to the post fund of the home, to be used for the common benefit of the members of the home under the direction of the board, subject to future reclamation by the relatives hereinbefore designated in the order named, upon application filed by the one entitled to the same within five years after the pensioner's death. The board may make proper rules to carry this into effect. Provided, however, that nothing in this act shall in any way conflict with the right of any member of the home to dispose of his property, including such pension money, by last will. [Amendment, Stats. 1905, 471.]

§ 11. All supplies, except those not of a general character, and not exceeding in value the sum of five thousand dollars in any one year, shall be furnished said home on contract, let to the lowest responsible bidder; notice to bidders shall be published for a period of two weeks in a newspaper of general circulation, published in each of the following cities, to wit: Napa and San Francisco. Such notice shall state that the board will receive bids for the needed supplies, setting forth the kind, quality and quantity of each article required, and that

the same must be delivered at the railroad station at Yountville, Napa County, free of charge, at such time and in such quantity as the board may, from time to time, direct. The notice must also state with whom the bids are to be filed, the time and hour when, and the place where the bids will be opened, and the contracts awarded. At the time and place appointed, the board shall proceed to open all bids and shall award the contract to the lowest bidder in each line of supplies called for; provided, however, the board may reject any bid which does not conform to the requirements of the published notice, and if, in their judgment, all bids for any line of supplies are unsatisfactory, they may reject all such bids and readvertise as in the first instance; and provided further, that the board may in the mean time and until a contract or contracts can be let, purchase in the open market the necessary butter, eggs and vegetables for the table of the home, if any contract or contracts for such supplies has or have been rejected. Bids shall be called for and contracts let in the month of June of each year or as near that time as practicable, and no contracts shall be entered into for a longer period than one year, beginning at the time of awarding said bids.

Before entering into a contract with any successful bidder, the board shall require an undertaking from such bidder, payable to the state of California, in such sum as they may deem sufficient to secure the faithful performance of the contract. Such bonds shall be approved by the board.

For the purchase of supplies, not of a general character, the making of necessary and emergency repairs, the construction of minor improvements, and for the defraying of incidental expenses the board shall have the power to expend each year a sum not to exceed in the aggregate five thousand, (5,000), dollars without first submitting said items to the approval of the board of examiners, and the controller is hereby authorized and directed to issue his warrants from time to time, drawn in favor of the treasurer of the board, and payable out of the fund herein referred to for such expenses upon a requisition therefor, signed by the president and secretary of the board. Such warrants shall not exceed, however, in any one year the sum of five thousand dollars. At the end of every three months the board shall file with the board of examiners a detailed statement, showing the expenditure, by items, of all sums of money so used. The treasurer of the board, upon receiving any moneys from the state treasurer under the foregoing provision, shall enter the same in his books in an account to be designated "Emergency Fund," and he shall pay the same out only upon drafts signed by the president and secretary of the board. [Amendment, Stats. 1905, 471.]

§ 12. No person shall be admitted to reside in said home, with the exception of the families of officers and employees, who is not an honorably discharged United States soldier, sailor, or marine, and who has not been a bona fide resident of the state of California for a period of six months immediately preceding his application, except as is provided in section sixteen of this act. The board may make such additional rules governing the admission of applicants, and may prescribe the conditions precedent upon which they may enter, and the conditions upon which they may remain, as in its judgment may be deemed just and proper and for the best interests of the home. [Amendment, Stats. 1905, 471.]

§ 13. Each director and officer of the board shall receive his actual and necessary traveling expenses in attending all the meetings of the board, and in traveling on business authorized by the board; such traveling expenses to be paid out of any moneys appropriated for the support of the home. The board of directors may maintain an office in the city of San Francisco at an expense for clerical service and expenses of every character, including rent, light, fuel, telephone, and janitor, not to exceed the sum of fifteen hundred dollars per annum. [Amendment, Stats. 1905, 471.]

§ 14. (Repealed, Stats. 1905, ch. CCCLXXIII.)

§ 15. The governor and attorney-general of the state, on behalf of the state, are hereby authorized to receive from the Veterans' Home Association, a corporation, all such deeds, conveyances, or other assurances as may be necessary in law to vest in the people of the state of California the title to the Veterans' Home property, with all appurtenances, and personal property of every kind connected therewith.

§ 16. (Repealed, Stats. 1905, ch. CCCLXXIII.)

§ 17. This act shall take effect upon the first day of July, one thousand eight hundred and ninety-seven.

VETERANS' HOME—DIRECTORS TO PURCHASE LAND.

Authorizing the directors of the Veterans' Home of California to purchase and take over, for the state of California, to be used and controlled by said board in the interests of the Veterans' Home of California, a certain piece of land adjoining the premises of the said Veterans' Home of California in the county of Napa, and appropriating the sum of three thousand dollars to pay for the purchase of the same.

(Stats. 1905, 167, ch. CLXXI.)

§ 1. The board of directors of the Veterans' Home of California is hereby authorized and directed to purchase, take over and manage for said Veterans' Home, and to pay to the Veterans' Home Association the sum of three thousand dollars therefor, the following described property, to wit:

Commencing at a stone in the middle of the county road leading from the city of Napa to Yountville, at the northeast corner of the 241.40 acre tract of land conveyed by J. M. Harbin to W. S. Clark, by deed dated June twenty-fifth, eighteen hundred and fifty-six, and recorded in liber "C" of deeds, page five hundred and nineteen, Napa County Records; thence from said point of beginning along the northwesterly line of said 241.40 acre tract S. 59 degrees W. 35.87 chains to a corner of the Veterans' Home tract of land; thence following the boundary of said Veterans' Home tract, as follows: S. 22½ degrees E. 4.72 chains to a point from which a large spring bears N. 6¾ degrees W. 59 links distant; thence N. 67½ degrees E. 2.62 chains; thence N. 22½ degrees W. 4.88 chains to a point 15 links southeasterly from the said northwesterly line of the above-mentioned 241.40 acre tract; thence N. 59 degrees E. and parallel to and 15 links distant from the northwesterly line of said 241.40 acre tract 33.27 chains to the middle of said county road; thence along the middle of said road N. 30 degrees W. 15 links to the place of beginning, containing 1.78 acres of land and being a part of said 241.40 acre tract.

§ 2. The sum of three thousand dollars is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, and the said state treasurer is hereby authorized and directed to pay the same to the said board of directors of the Veterans' Home of California for such purpose, and the said board of directors of the Veterans' Home of California is hereby authorized and directed to purchase the said property and to pay to the said Veterans' Home Association the same upon the conveying of a good and sufficient title to the state of California in and to said lands.

§ 3. This act shall take effect and be in force on and after its passage.

VETERANS' HOME—LIQUORS.

To prohibit the sale of intoxicating liquors within a certain distance of the Veterans' Home located at Yountville, Napa County.

(Stats. 1905, 126, ch. CXXIII.)

§ 1. It shall not be lawful for any person to keep any saloon or bar, or sell or offer for sale any spirituous, vinous or malt liquors, within one mile and a half of the exterior limits of the land on which is located the Veterans' Home at Yountville, Napa County, state of California; and any person violating the provisions of this statute shall be guilty of a misdemeanor, and for each offense shall be punished by imprisonment in the county jail for not exceeding six months, or by fine not less than fifty dollars nor more than five hundred dollars; and in the case of the non-payment of such fine such person may be imprisoned in the county jail at the rate of one day for each two dollars of said fine remaining unpaid.

§ 2. This act shall take effect October first, nineteen hundred and five.

VETERINARIAN—STATE.

See tits. Animals, Diseases of; License; Veterinary Surgery.

VETERINARY SURGERY—PRACTICE OF.

To regulate the practice of veterinary medicine and surgery in the state of California.

(Stats. 1893, 286, ch. CCIII; amended 1903, 258, ch. CCXXIV.)

§ 1. It shall be unlawful for any person or persons to practise veterinary medicine and surgery in the state of California without having previously obtained a diploma from a college duly authorized to grant such to students in veterinary medicine and surgery, or to those who have passed satisfactory examinations before the state veterinary medical board, as hereinafter provided for; provided, that nothing in this act shall prevent the medical or surgical treatment of stock by the owners or the employees of owners, or by neighbors who do not assume to be practitioners of veterinary medicine or surgery. [Amendment, Stats. 1903, 258.]

§ 2. 1. This board of examiners shall be known as the state veterinary medical board, and shall consist of five duly qualified practitioners in veteri-

nary medicine and surgery, whose duty it shall be to carry out the purposes and enforce the provisions of this act.

2. The members of the state veterinary medical board shall be appointed by the governor of the state.

3. The board so appointed shall hold their offices for four (4) years, and the compensation of each member of said state veterinary medical board shall be five dollars per diem, exclusive of all necessary expenses while actually engaged in the duty of their office at the meetings of said board.

4. A meeting of the state veterinary medical board shall be held at least once in every six months after the appointment of said board by the governor of the state of California, such meetings to be held alternately in San Francisco and Los Angeles.

5. Three members of the state veterinary medical board shall constitute a quorum.

6. Said compensation to be paid out of the fees and penalties received under the provisions of this act, and no part of the salary or other expenses of the state veterinary medical board shall be paid out of the state treasury.

7. All moneys received by said state veterinary medical board as such fees and penalties, in excess of the compensation and expense of the state veterinary medical board, shall be annually paid into the state treasury, and become a part of the general fund of the state.

§ 3. 1. Said state veterinary medical board shall examine all diplomas as to their genuineness. Each applicant not holding a diploma shall submit to a theoretical and practical examination before the state veterinary medical board; said examination to be written or oral, or both, and sufficiently strict to satisfy said board that the applicant is competent to practise veterinary medicine and surgery.

2. An examination fee of five dollars shall be paid to the state veterinary medical board by the holder of a diploma, and ten dollars by an applicant not holding a diploma; said money shall be paid by the applicant before examination.

3. In case of failure of approval, said fee shall be forfeited to the state veterinary medical board.

§ 4. All examinations of persons not graduates shall be made directly by the state veterinary medical board, and the certificates given by said board shall authorize the possessor to practise veterinary medicine and surgery in the state of California. All examinations of ungraduated practitioners must take effect before the eighteenth day of September, nineteen hundred and three; after that date no certificates shall be granted except to persons presenting diplomas from legally chartered colleges. [Amendment, Stats. 1903, 258.]

§ 5. Upon the approval of credentials, or upon approval of the examination of an applicant, said state veterinary medical board shall grant him or her a license to practise in this state, and shall receive therefor a fee of five dollars; said license shall be signed by a majority of the board.

§ 6. Any person qualified as required by this act shall, upon receipt of his license to practise, have said license prominently displayed in his office, and a

true copy thereof shall be filed in the office of the clerk of the county in which he resides. Any person removing to another county to practise shall file the license in like manner in the county to which he removes. The holder shall pay to the county clerk the usual fees for filing. Any person holding such license who shall refuse or neglect to prominently display in his office, or file a copy of the same with the county clerk, as above directed, within six months after receiving such license shall forfeit his license; and no license when once forfeited shall be restored to the original holder except on the payment to said state veterinary medical board of the sum of twenty-five dollars, as a penalty for such failure, neglect, or refusal.

§ 7. Any person shall be regarded as practising veterinary medicine and surgery, within the meaning of this act, who shall have received a license as mentioned in section five. But nothing in this act shall be construed to prohibit members of the medical profession from prescribing for domestic animals in case of emergency, and collecting a fee therefor, nor to prohibit gratuitous services in an emergency, nor prevent any person from practising veterinary medicine or surgery on any animal belonging to himself or herself. And this act shall not apply to commissioned veterinary surgeons in the United States army.

§ 8. Any person practising veterinary medicine or surgery in this state contrary to the provisions of this act shall be guilty of a misdemeanor, the penalty of which shall be a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or by imprisonment of not exceeding six (6) months, or by both.

§ 9. This act shall take effect sixty days from and after its passage.

VINES—VINEYARDS.

See tits. **Agriculture; Horticulture; Viticulture.**

VISALIA—CITY.

To quiet title to town lots in the city of Visalia.

(Stats. 1877-8, 363, ch. CCXCI.)

§ 1. All deeds of conveyance heretofore executed to the purchasers and holders of town lots in the city of Visalia, sold at public auction by the county of Tulare, which deeds were executed by the county clerk of said county, and purport to be made under and by virtue of a certain order made and entered of record by the board of supervisors of said Tulare County, on the fourth day of November, anno Domini eighteen hundred and fifty-eight, on the minutes of said board, are hereby declared valid and effectual in law, to vest in the grantee or grantees named in any such deed, his or their heirs and assigns, all the right, title, and interest of said county of Tulare, in and to the land and premises mentioned and described in such deed of conveyance.

§ 2. This act shall take effect from and after its passage.

See tit. **Municipal Corporations.**

VITAL STATISTICS.

See tits. **Burial and Disinterment; Cemeteries—Disinterment**, and note thereunder; also **State Board of Health.**

VITICULTURE.

For the protection of the viticultural interests of the state, and making an appropriation therefor.

(Stats. 1903, 522, ch. CCCLXXVII.)

§ 1. The regents and the president of the University of California are hereby directed to cause to be prosecuted with all possible diligence, in connection with and in addition to the work heretofore carried on by the agricultural experiment station, experimental and research work in the field of viticulture, including both cultural and industrial processes. They are directed to ascertain the adaptation of the various kinds of vines to the several climatic and soil conditions of the state, with the special reference to those stocks for propagating purposes, resistant to the phylloxera, and to further their adaptability and utility as grafting stocks for producing wine, raisin and table grapes. They are directed to ascertain the best methods of grafting and propagating said stocks and vines, together with the most important methods of vinification and the preparation, manufacture and application of yeasts in vinification and distillation. They are further directed to report upon the utilization of the by-products of the vineyard and winery, the study and treatment of the vine diseases and all matters appertaining to the viticultural industry, pertinent to the successful conduct of the business and that may be of general public interest, use and profit. They are further directed to publish the result of said experiments and investigations in form of bulletins from time to time, as may seem advisable, and not less than two bulletins showing the progress and result of the work, shall be issued in any fiscal year.

§ 2. The sum of three thousand dollars (\$3,000) is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act; said money to be paid to the regents of the University of California, to be expended by them through the agricultural department of the university during the two years beginning July first, nineteen hundred and three. The controller of the state is hereby directed to draw his warrant for such payments as requested by said regents of the State University of California, and the treasurer of the state is hereby directed to pay the same.

§ 3. This act shall take effect and be in force from and after its passage.

By Stats. 1880, 52, ch. LXII, a commission of viticulture, consisting of nine members, to be appointed by the governor, was provided. By the same statute it was made the duty of the regents of the University of California to provide special instruction in the agricultural department in the arts and science pertaining to viticulture, and to make inspections and reports upon the different sections of the state adapted to viticulture, and upon woods suitable for

cooperage, making analyses, etc., of wines, brandies, etc.

By Stats. 1881, 51, the duties and powers of the commissioners were enlarged, and again by Stats. 1885, 9.

By Stats. 1895, 235, ch. CLXXXIX, the foregoing legislation was practically repealed, and the commissioners were directed to complete any unfinished work and to turn over whatever property it had to the regents of the University of California.

VITICULTURAL COMMISSION.

[The statute of 1880, 52, ch. LXII, for the promotion of the viticultural industries of the state, and creating a board of commissioners, was supplemented by act of 1881, 51, and by act of 1885, 9, and they were each repealed (except-

ing §§ 8, 9 of 1880, 52) by act of 1895, 235, ch. CLXXXIX, and the subject was transferred to the regents of the University of California. The §§ 8 and 9, of the former statute, not repealed, read as follows:]

§ 8. And for the further promotion of viticultural interests, it shall be the duty of the board of regents of the University of California to provide for special instruction to be given by the agricultural department of the university in the arts and sciences pertaining to viticulture, the theory and practice of fermentation, distillation, rectification, and the management of cellars, to be illustrated by practical experiments with appropriate apparatus; also, to direct the professor of agriculture, or his assistant, to make personal examinations and reports upon the different sections of the state adapted to viticulture; to examine and report upon the woods of the state procurable for cooperage, and the best methods of treating the same; and to make analysis of soils, wines, brandies, and grapes, at the proper request of citizens of the state; also, to prepare a comprehensive analysis of the various wines and spirits produced from grapes, showing their alcoholic strength and other properties, and especially any deleterious adulterations that may be discovered. The regents shall also cause to be prepared, printed, and distributed to the public quarterly reports of the professor in charge of this work relating to experiments undertaken, scientific discoveries, the progress and treatment of the phylloxera and other diseases of the vine, and such other useful information as may be given for the better instruction of viticulturists.

§ 9. The board of regents of the university shall be authorized to receive and accept donations of lands suitable for experimental vineyards and stations, and shall submit in their next annual report an economical plan for conducting such vineyards, and for the propagation and distribution of specimens of all known and valuable varieties of grapevines.

See § 25, subd. 26, County Government Act of 1897; also tits. **Agriculture; Horticulture; State Analyst; University of California.**

Stats. 1881, 51.—Ex parte John Cox, 63 Cal. 21.

Stats. 1880, 52, and 1885, 9.—Merced County vs. Helm, 102 Cal. 159, 164, 36 Pac. Rep. 399.

VOLUNTEERS.

See tit. **California Volunteers.**

VOTING MACHINES.

See tit. **Balloting Machines.**

WAGES.

See tits. **Labor Contracts; Liens—Labor; Public Work.**

WAREHOUSE AND WHARFINGER RECEIPTS.

In relation to warehouse and wharfinger receipts, and other matters pertaining thereto.

(Stats. 1877-8, 949, ch. DCVII.)

The above statute is supposed to be carried into the Civil Code by Stats. 1905, 611, ch. CDLII.—See **KERR'S CYC. CIVIL CODE** §§ 1858-1858f.

The following cases cite the former statute: Amann vs. Lowell, 66 Cal. 306, 308, 5 Pac. Rep. 363; Bishop vs. Fulkerth, 68 Cal. 607, 610, 10 Pac. Rep. 122; Lowrie vs.

Salz, 75 Cal. 349, 354, 17 Pac. Rep. 232; Garoutte vs. Williamson, 108 Cal. 135, 141. 41 Pac. Rep. 35, 413; Cavallaro vs. Texas & Pac. R. Co., 110 Cal. 348, 359, 52 Am. St. Rep. 94, 42 Pac. Rep. 918; Sinsheimer vs.

Whitely, 111 Cal. 378, 379, 52 Am. St. Rep. 192, 43 Pac. Rep. 1109; Goldstone vs. Merchants I. & C. Co., 123 Cal. 625, 631, 56 Pac. Rep. 776.

See next following statute.

WAREHOUSE RECEIPTS.

Concerning warehouse receipts, and the issuing, sale and transfer thereof, and the sale of goods, wares and merchandise stored in public or private warehouses in other states.

(Stats. 1905, 322, ch. CCCVII.)

§ 1. That it shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sell, pledge, assign or transfer in this state, any receipt, certificate or other written instrument purporting to be a warehouse receipt, or in the similitude of a warehouse receipt, or designed to be understood as a warehouse receipt, for goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument, shall have been issued by the warehouseman operating such warehouse.

§ 2. It shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sell, pledge, assign or transfer in this state, any receipt, certificate or other written instrument for goods, wares or merchandise claimed to be stored or deposited, in any warehouse, public or private, in any other state, knowing that there is no such warehouse located at the place named in such receipt, certificate or other written instrument, or if there be a warehouse at such place, knowing that there are no goods, wares or merchandise stored or deposited therein as specified in such report, certificate or other written instrument.

§ 3. It shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sign, sell, pledge, assign or transfer, in this state, any receipt, certificate or other written instrument evidencing, or purporting to evidence, the sale, pledge, mortgage or bailment of any goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument shall plainly designate the number and location of such warehouse, and shall also set forth therein a full, true and complete copy of the receipt issued by the warehouseman operating such warehouse wherein such goods, wares or merchandise are stored or deposited, or are claimed to be stored or deposited; provided, that the provisions of this section shall not apply to the issue, signing, sale, pledge, assignment or transfer of bona fide warehouse receipts issued by the warehouseman operating public or bonded warehouses in other states, according to the laws of the state wherein such warehouses may be located.

§ 4. Every corporation, firm or person, agent or employee, who shall knowingly violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than

fifty nor more than one thousand dollars, to which may be added imprisonment in the county jail for any period not exceeding six months.

WAREHOUSEMEN—WEIGHERS FOR.

Relating to weights and weighers for warehousemen and wharfingers, and matters connected therewith.

(Stats. 1903, 387, ch. CCLXIX.)

§ 1. All persons now engaged in or who may hereafter engage in a general warehouse, wharfinger or storage business for the storage of grain or other commodities, which in the course of such business are weighed, shall before they engage in such business or within sixty days after the appointment of an inspector of weights as provided in section four of this act, designate in writing a person or persons as weigher or weighers for such business at the place thereof, and the person or persons so designated shall thereupon, and before they shall do any weighing for such business subscribe, before an officer authorized to administer oaths, the following oath, to wit:

“(I or we) designated as (weigher or weighers) will correctly weigh all grain or other commodities brought to (here designating the business and place of business) for storage or weighing, or which may be taken out from the same, and in all cases render to the person bringing or receiving the same, as the case may be, upon demand, a full, true and correct account of the weight thereof.”

§ 2. All persons engaged in the business in the foregoing section mentioned shall keep for and use in such business no other than true and correct scales and weights.

Said designation and said oath shall thereupon and within the time aforesaid, be recorded in the office of the recorder of the county in which such business is to be or is being carried on.

No person, excepting the person or persons thus designated and subscribing and recording such oath shall do any of the weighing of such business.

§ 3. Every person engaged in the business in said section one mentioned, shall keep and use therein none but true weights, and scales; said weights must conform to the United States standard of weights.

§ 4. The board of supervisors of the respective counties of the state of California, hereby are authorized to appoint for their respective counties an inspector of weights and measures, who shall hold office at the pleasure of said board and receive such compensation as each board may allow, and whose duty it shall be from time to time to test and examine all scales and weights kept or used in the business in the foregoing sections mentioned, and report all violations of this act to the district attorney of such county, whose duty it shall be to prosecute all violations hereof.

§ 5. Every violation of this act shall be and is punishable as a misdemeanor.

§ 6. Besides the prosecution of the criminal actions herein provided for, every person defrauded by false or incorrect weighing shall be entitled to recover from the person owning or conducting such business as in the foregoing sections mentioned, in any court of competent jurisdiction, three times

the amount of such shortage in weight of the grain or other commodity so delivered or taken out by him.

WARRANTS.

See tit. State Warrants.

WATER COMPANIES—REGULATING SALES.

See tit. Irrigation.

WATER COMPANIES—REGULATING SALES.

See tit. Irrigation.

WATER DITCHES AND FLUMES.

For the protection of the owners of ditches and flumes.

(Stats. 1889, 202, ch. CLXVIII.)

§ 1. When two or more persons are associated by agreement in the use of a ditch or flume, or are using for the irrigation of land a ditch or flume, to the construction of which they or their grantors have contributed, each of them shall be liable to the other for the reasonable expense of maintaining and repairing the same in proportion to the share in the use of the water to which he is entitled.

§ 2. If any of them refuse or neglect, after demand in writing, to pay his proportion of such expenses, he shall be liable therefor in an action for contribution in the nature of an action on the case, and in any judgment obtained against him, interest from the time of such demand, at the rate of two per centum per month may be included.

§ 3. If any of them wilfully appropriate to his own use more than his proportionate share of the water from such ditch or flume, to the detriment of his associates, or any of them, he shall be liable in damages in treble the value of the water so appropriated in excess of his proper share.

§ 4. The actions provided for in sections two and three may be brought by any or either of the parties injured, and may be joint or several.

§ 5. This act shall take effect from and after its passage.

See tit. *Miner's Inch*.

WATER RESOURCES—INVESTIGATION.

To provide for the joint investigation with the federal government of the water resources of the state, and the best methods of preserving the forests thereof; and to make an appropriation for the expenses of such investigations.

(Stats. 1905, 152, ch. CLVII.)

§ 1. The state board of examiners are hereby empowered to enter into contracts with the director of the United States geological survey for the purpose of making topographic maps to the extent of thirty thousand dollars; also for the purpose of gauging streams, determining underground water supplies, sur-

veying reservoir sites and canal locations, for the conservation and utilization of waters of the state, to the extent of twenty thousand dollars; also for the purpose of investigating the economic quality and purity of the water of the state, to the extent of one thousand dollars; provided, no work of the nature heretofore stated shall be done where the same will interfere with the water already appropriated or in reservoirs or now in use for irrigation purposes, or domestic purposes, under the laws of this state; also with the chief of the bureau of forestry of the department of agriculture for the purpose of studying the forest resources of the state and their proper conservation, and especially with a view of formulating a proper state forestry policy, to the extent of ten thousand dollars; also with the director of the office of experiment stations of the department of agriculture for the purpose of ascertaining the best methods of distributing and using the water, to the extent of fifteen thousand dollars, provided, however, that these expenditures for such purposes shall not be in excess of the amounts to be expended by the various departments of the federal government in collaboration with the specific work named above; and provided further, that in case any of the departments of the federal government above mentioned do not contribute these funds for said co-operation, that the state board of examiners shall have power to enter into such contracts as may seem best to them with the lawfully authorized representatives of any of the departments of the federal government for the expenditure of said remaining balance; and provided further, that said last-mentioned expenditure for such purpose shall not be in excess of the amount to be expended by that department of the federal government in collaboration with the state.

§ 2. In order to carry out the purposes of this act, any person or persons employed hereunder are authorized to enter and cross all lands within this state; provided, in so doing no damage is done to private property; it shall be a misdemeanor, punishable as provided in such cases, for any person or persons to wilfully and maliciously remove or destroy any permanent marks or monuments made or erected by any such persons.

§ 3. The sum of seventy-six thousand dollars is hereby appropriated for the purposes specified in this act, and the controller of state is hereby authorized and directed to draw warrants upon such fund from time to time, upon the requisition of the state board of examiners and the state treasurer is hereby authorized and directed to pay such warrants; provided, one half of the appropriation herein shall be available in the fifty-seventh fiscal year, and the remaining one half of said appropriation shall be available in the fifty-eighth fiscal year, except that one half the funds for making topographic maps shall be available during the twelve months immediately following the passage of this act, and the remaining one half of this fund shall be available during the second twelve months following the passage of this act.

§ 4. It is hereby made the duty of the surveyor-general and the engineer of the board of public works to render any assistance desired by the state board of examiners in furtherance of the aims of this act.

This act shall take effect and be in force on and after the passage of this act.

It is believed that the foregoing is in all respects a duplicate of, and is intended to supersede, Stats. 1903, 171, ch. CLV, excepting that the former statute appropriated

sixty thousand dollars, while seventy-six thousand dollars is appropriated by the later statute, and the dates upon which the appropriations are made available.

WATERS.

See tits. **Artesian Wells**; **Irrigation**; **Miner's Inch**; **Municipal Corporations**; **Oil Lands**.

WATERS—NAVIGABLE.

See **KERR'S CYC. POL. CODE** § 2348 et seq.

WATSONVILLE.

See tit. **Municipal Corporations**.

WEEDS.

See tits. **County Government Act** (§ 25, subd. 26); **Trees and Hedges**.

WEIGHTS AND MEASURES.

See tit. **Warehousemen**.

WHARVES.

See tit. **San Joaquin River**.

WHEATLAND—TOWN.

See tit. **Municipal Corporations**.

WHITTIER STATE SCHOOL.

To establish a school for the discipline, education, employment, reformation, and protection of juvenile delinquents, in the state of California, to be known as "The Whittier State School."

(Stats. 1889, 111, ch. CVIII; amended 1893, 328, ch. CCXXII. Foregoing is the title as given in the amendatory act of 1893.)

§ 1. There shall be established and maintained in this state, and located at Whittier, in the county of Los Angeles, an institution for the discipline, education, employment, reformation, and protection of juvenile delinquents in the state of California, to be known as "The Whittier State School;" and in all judicial, official, or other proceedings, and in all contracts, transfers, or other instruments in writing, the above name shall be deemed a sufficient designation of said institution. [Amendment, Stats. 1893, 328.]

§ 2. The general supervision and government of said institution shall be vested in a board of trustees, consisting of three citizens of the state of California, who shall be appointed by the governor, with the advice and consent of the senate. The members of said board shall hold their offices for the respective terms of two, three, and four years from the first day of March, eighteen hundred and eighty-nine, and until their successors shall be appointed and qualified, said respective terms to be designated in their appointments; and thereafter there shall be one of said board appointed in the same manner every two years, whose term of office shall continue four years, and until his successor is appointed and qualified. If a vacancy shall occur in said board by expiration of the term of any such trustee, or otherwise, when the senate is not in

session, the governor shall fill such vacancy for the unexpired term, subject to the approval of the senate at its next regular session. Said trustees, before entering on the discharge of the duties of their office, shall each take an oath faithfully to discharge the same.

§ 3. The trustees of such institution shall be a body corporate and politic for certain purposes, namely: To receive, hold, use, and convey or disburse moneys or other property, real and personal, in the name of said corporation, but in trust and for the use and by the authority of the state of California, and to control, manage, and direct, the several trusts committed to them respectively, including the organization, government, and discipline of all officers, employees, and other inmates of said institution, with power to make contracts, to sue and be sued, plead and be impleaded, to have and to use a common seal, and to alter the same at pleasure, and to exercise all the powers usually belonging to said corporations and necessary for the successful discharge of the obligations devolved by law upon said members of trust; provided, that they shall not have power to bind the state by any contract or obligation beyond the amount of appropriations which may at the time have been made for the purposes expressed in the contract or obligation, nor to sell or convey any part of the real estate belonging to such institution without the consent of the legislature, except that they may release any mortgage, or convey any real estate which may be held by them as security for any money or upon any trust, the terms of which authorize such conveyance; and provided further, that the legislature shall have power at any time to amend, alter, revoke, or annul the grant of corporate powers herein contained.

§ 4. The said board of trustees are hereby empowered with full power and authority to select a site for the permanent location of said school in the county of Los Angeles. Said trustees shall, within thirty days after their appointment and qualification, examine the different sites offered by the people of the county of Los Angeles for the location of said school, and select therefrom a suitable location for said buildings; and the site selected by them shall be and remain the permanent site for said school; said site to contain not less than forty nor more than one hundred and sixty acres, giving preference, other things being equal, to a location central and easy of access from all parts of the county or state; provided, that no buildings shall be commenced or erected in said county of Los Angeles until a deed in fee simple of the land selected by the said board of trustees shall be made to the state, and recorded in the records of the county recorder of said Los Angeles County, and said deed deposited in the office of the secretary of state. [Amendment, Stats. 1893, 328.]

§ 5. The said board of trustees shall prepare and adopt plans for the grounds, buildings, and fixtures necessary and proper for such an institution, not in their judgment to exceed in cost the amount of money hereinafter appropriated, but if practicable, of such description that other buildings can be added to or enlarged without injury to their symmetry or usefulness; and may let or make all necessary contracts, with the approval of the governor, for the construction of such buildings and fixtures, and the improvement of the grounds, according to such plans. Said board of trustees shall use all prac-

ticable diligence in the commencement and completion of said building and fixtures, and the improvement of the grounds, according to such plans.

§ 6. No trustee or employee of such institution shall be personally, directly or indirectly, interested in any contract, purchase, or sale made, or any business carried on, in behalf of or for said institution. All contracts, purchases, or sales made in violation of this section shall be held and declared null and void, and all moneys paid to such trustee, employee, or any other person for his benefit, in whole or in part, in consideration of such purchases, contracts, or sales made, may be recovered back by civil suit, to be instituted in the name of the state of California, against such trustee, employee, or person acting in his behalf; and in addition it is hereby made the duty of the governor and the board of trustees, as the case may be, upon proof satisfactory of the fact of such interest, to immediately remove the trustee or employee delinquent as aforesaid, and to report the facts to the attorney-general, who shall take such legal steps in the premises as he shall deem expedient.

§ 7. The board shall make all needful rules and regulations concerning their meetings and the modes of transacting their business; shall take charge of said institution to see that its affairs are properly conducted, that strict discipline is maintained, and that suitable employment and education are provided for its inmates. They are authorized to make contracts for the purchase of furniture, apparatus, tools, stock, provisions, and everything necessary to equip the institution for the purposes herein specified, and to maintain and operate the same; provided, said board shall incur no expense nor contract any debt beyond appropriations made or donations given for the said school; and then only in such manner as may be prescribed by the act of appropriation or the instrument of donation. [Amendment, Stats. 1893, 329.]

§ 8. The board shall annually elect from their own number a president and a vice-president, whose term of office shall be for one year, and until their successors shall be duly appointed and qualified. They shall also elect a treasurer, not one of their own number, whose term of office shall be for two years and until his successor shall be duly elected and qualified; who shall be at all times subject to removal by the board for good cause. [Amendment, Stats. 1893, 329.]

§ 9. The board shall appoint a superintendent of said school, not of their own number, whose salary shall be fixed by said board, not to exceed three thousand six hundred dollars per annum, and shall also appoint such other officers and such assistants as the wants of the institution may from time to time require, and shall prescribe their duties and fix their salaries, as may be reasonable. [Amendment, Stats. 1893, 329.]

§ 10. Said board of trustees shall, on or before the first day of December, every two years, make to the governor a full and detailed report of their doings as such trustees, and of the expense of said institution, with such other information relating thereto as they may think interesting or useful to the state; which report shall be communicated by the governor to the next succeeding session of the state legislature. Said trustees shall receive no salary for their services as such from the state, but shall be allowed all necessary expenses incurred in the discharge of their duties.

§ 11. The board of trustees shall have a regular meeting once every three months, at such time and place as they may direct; special meetings may be called by the president of said board in all cases where it becomes necessary for such a meeting.

§ 12. The superintendent, before entering upon the duties of his office, shall take an oath faithfully to discharge the same, and execute a bond, with sureties to be approved by the board, in a sum to be fixed by the board, conditioned for the faithful performance of all his duties as such superintendent. He shall be a resident at the institution, and shall be ex officio the secretary of the board, taking charge of all books and papers. He shall have charge of the lands, buildings, furniture, apparatus, tools, stock, provisions, and every other species of property belonging to the institution, subject to the direction and control of said board, and shall account to the board in such manner as they may require for all property intrusted to him, and all moneys received by him, from whatever source, shall be deposited with the treasurer. His books shall at all times be open to the inspection of the board, who shall at least once in every three months carefully examine the same, and all accounts, vouchers, [and] documents connected therewith, and make a report of the result of such examination in a book provided for the purpose. He shall have charge of the inmates of said institution; he shall discipline, govern, instruct, employ, and use his best efforts to reform the children and youth under his care, and shall at all times be subject to removal by the board for incapacity, cruelty, negligence, immorality, or any other good cause.

§ 13. The treasurer, before entering upon the duties of his office, shall take an oath faithfully to discharge the same, and shall execute a bond to the people of California, with sureties, to be approved by said board, in at least double the sum of money for which he may be responsible as treasurer, conditioned for the faithful performance of all his duties as such treasurer; he shall take charge of all the funds of the institution, receiving the same and disbursing them on the written order of the superintendent, and shall account to the board, in such a manner as they may require, for all funds intrusted to him, from whatever source. His books shall at all times be open to the inspection of the board and superintendent, who shall at least once in every six months carefully examine the same, and all the accounts, vouchers, and documents connected therewith, and make a report of the result of such examinations. Such treasurer must be a citizen of Los Angeles County, and shall receive for his services a salary of six hundred dollars per annum.

§ 14. Said board of trustees shall arrange the building or buildings to be used for said school, and the grounds about the same, so that a portion thereof may be used for the proper confinement, care, and education of the male inmates, and the remaining portion for the proper confinement, care, and education of the female inmates, and to the absolute exclusion of all communication of any kind or character between the sexes. [Amendment, Stats. 1893, 329.]

§ 15. Whenever said institution shall have been so far completed as to properly admit of the reception of inmates therein, the governor shall make due proclamation of that fact; and thereafter it shall be lawful for said board of trustees to receive into its care and guardianship minors between the ages

of eight and eighteen years committed to its custody, as hereinafter provided. [Amendment, Stats. 1893, 329.]

§ 16. When any boy between the ages of seven and sixteen or any girl between the ages of seven and eighteen years shall be found guilty by a superior court of any county in the state, and who in the opinion of such court would be a fit subject for commitment to the said school, it shall be lawful for the said court to suspend judgment or sentence (except when the penalty is life imprisonment or death), and to commit such minor to the said school until any such male minor shall have reached the age of sixteen years and any such female minor shall have reached the age of twenty-one years unless sooner discharged by law or as in this act provided; but no minor who is under the age of seven years or who is suffering from any contagious, infectious or other disease which would probably endanger the lives or health of the other inmates of said school, shall be committed to said school; and further provided that no such minor shall be committed to said school unless the judge of such court shall be fully satisfied that the mental and physical condition and qualifications of said minor are such as to render it probable that such minor will be benefited by the reformatory and educational discipline of said school. The board of trustees of said school shall have authority to make rules reducing, as the reward for good conduct, the time for which such person or persons have been committed. It shall be the duty of all courts committing any minor to such school to certify to the superintendent thereof the age of the person so committed, as nearly as can be ascertained by testimony taken under oath before such court or in such manner as the court may direct. [Amendment, Stats. 1905, 80.]

§ 16a. Any child between seven and fourteen years of age, who wilfully and habitually absents himself or herself from school contrary to the provisions of an act entitled an act to enforce the educational rights of children and providing penalties for violation of the act, approved March twenty-fourth, nineteen hundred and three, may be committed to the Whittier State School by any superior court judge on the complaint of any peace officer, teacher, parent, guardian or other person, under the same conditions and in the same manner as provided in section sixteen of this act. [New section added, Stats. 1905, 80.]

§ 16b. Any child who comes under the provision of an act entitled an act defining and providing for the control, protection and treatment of dependent and delinquent children, prescribing the powers and duties of courts with respect thereto; providing for the appointment of probation officers, and prescribing their duties and powers; providing for the separation of children from adults when confined in jails or other institutions; providing for the appointment of boards to investigate the qualifications of organizations receiving children under this act and prescribing the duties of such boards; and providing what proceedings under this act shall be admissible in evidence, approved February twenty-sixth, nineteen hundred and three, may be committed to the Whittier State School by any superior judge under the same conditions and in the same manner as provided in section sixteen of this act. [New section added, Stats. 1905, 80.]

§ 16c. [Stats. 1905, 80; § 16b Stats. 1893.] It shall be lawful for the board, whenever it may deem any inmate of said institution to have been so far reformed as to justify his discharge, to give him an honorable dismissal, and to cause an entry of the reasons for such dismissal to be made in the book of records prepared for that purpose. All persons thus honorably dismissed, and all those who shall have served the full term of their respective sentences, shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which they may have been committed. Upon the final discharge of any inmate, as in this section provided, the superintendent, where any sentence or judgment was previously suspended, as mentioned in section sixteen of this act, shall immediately certify such discharge in writing, and shall transmit the said certificate to the court by which such person was committed, and said court shall thereupon dismiss the accusation, and the action pending against said person. [New section, Stats. 1893, 330.]

§ 16d. [Stats. 1905, 82; § 16c Stats. 1893.] The board shall have authority also to issue certificates of conditional dismissal and parole to any worthy minor confined in the institution, on the following conditions: It may bind such minor by articles of indenture to any suitable person who will engage to educate him, and to instruct him in some useful art or trade, or it may return him to his parents, or it may place him under the care of any reputable person who is a citizen and a resident of this state, after such person, parent, guardian, or resident citizen shall have become bound to the said board, with good and sufficient sureties, conditioned on the proper custody, care, education, and moral and industrial training of the said paroled minor. The time of such conditional release shall be made subject to good behavior and continued reformation on the part of the person thus paroled. Any minor who violates his parole, or who becomes habitually disobedient and incorrigible, may be returned to the said school to serve the unexpired term of his sentence, on complaint of his guardian and the written requisition of the superintendent of said school. Every paroled minor who properly observes and obeys the condition of his parole until the date of the expiration of his term of commitment shall be entitled to all the benefits and immunities in this act provided. If at any time it shall be determined by the board of trustees of said school, to its satisfaction, that any minor who may have been committed to the care or guardianship of any third person, as in this section previously provided, is not being properly treated or cared for, according to the terms and conditions under which such minor was intrusted to said third person, then by a resolution of the said board entered upon its minutes, and upon the requisition of the superintendent of said institution issued thereon, the said minor may be recalled to said school, and he or she shall be released from all obligations to such third person. And in such case the said board shall have the right to maintain all necessary actions or proceedings against the said third person and his bondsmen to recover the penalty in whatever bonds may be given by reason of the failure of said third person to perform the conditions under which said minor was intrusted to his care; and in the event of minors who may have been bound out by the said board of trustees by articles of indenture, the said board shall institute and maintain all proper actions and proceedings to cancel and annul said articles of indenture. [New section, Stats. 1893, 331.]

§ 16e. [Stats. 1905; § 16d Stats. 1893.] Any male minor who shall, during the time of his commitment, be found incorrigible, who shall be in the judgment of the board of trustees of said school determined to be an improper person for detention in said school, may be returned to the court from which such minor was committed, and upon written complaint of the said board, attested by the superintendent of said school, and filed with the original complaint, it shall be the duty of said court to commit said male minor to the Preston School of Industry for such judgment and sentence as would have been lawful at the time when the said minor was first committed to the said school. [Section renumbered and amended, Stats. 1905, 80.]

§ 17. If any accusation of the commission of any crime shall be made against any male minor under the age of sixteen years or any female minor under the age of eighteen years before any grand jury and the charge appears to be supported by evidence sufficient to put the accused upon trial, the grand jury may, in their discretion, instead of finding an indictment against the accused, return to the superior court, as it appears to them that the accused is a suitable person to be committed to the court and guardianship of said institution. The court may thereupon order such commitment, if satisfied from the evidence that such commitment ought to be made, which examination may be waived by the parent or guardian of such minor. [Amendment, Stats. 1905, 80.]

§ 18. If any male minor between the ages of seven and sixteen or any female minor between the ages of seven and eighteen shall be arraigned for trial in any court having competent jurisdiction, on charge of any violation of any criminal law of this state (except for the commission of a capital offense or attempt to commit a capital offense), the judge may, in his discretion, with the consent of the accused, arrest at any stage of the cause any further proceedings on the part of the prosecution and commit the accused to the care and guardianship of this institution. [Amendment, Stats. 1905, 80.]

§ 19. All male minors between the ages of seven and sixteen and all female minors between the ages of seven and eighteen, who may be accused of any offense punishable by imprisonment, shall, with a view to the question whether they ought to be committed to said institution, be entitled to a private examination and trial before a court having competent jurisdiction, to which only the parties to the case and the parent or guardian of the accused and their attorneys shall be admitted, unless one of the parents, the guardian or other legal representative of the minor demand a public trial; in such case the proceedings shall be in the usual manner. [Amendment, Stats. 1905, 80.]

[Amendatory act of 1905 also contained the following sections:]

[§ 19a.] § 10. Within sixty days after the passage of this act and its approval by the governor, it shall be the duty of the board of trustees of the Whittier State School to cause all male inmates of said school who are over sixteen years of age to be committed to the Preston School of Industry.

[§ 19b.] § 11. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 20. It shall also be lawful for the said board of trustees, under such rules as they may prescribe, to receive into the care and guardianship of said institu-

tion, whenever it may be convenient so to do, minors between the ages of eight and eighteen years, committed to custody in any of the following modes:

1. Minors committed by any judge of a superior court of this state, on the complaint in writing, filed and due proof thereof made by the parent or guardian of such minor, showing that by reason of the incorrigible and vicious conduct or nature of such minor he is beyond the control and power of such parent or guardian, and that from a regard for the future welfare of such minor and the protection of society it appears that such minor should be placed in the care of such institution.

2. Minors committed by any judge of the superior court of this state where complaint in writing has been filed and due proof of the same has been made showing that such minor is a proper subject for the care and guardianship of such institution in consequence of vagrancy or of incorrigible or vicious conduct, in cases where, from moral depravity or otherwise, the parent or guardian having the control of such minor is incapable of exercising or is unwilling to exercise the proper care or discipline over such minor, or in cases where such minor has no parent, guardian, or other protector.

3. Minors committed by any judge of the superior court of this state where complaint in writing has been filed and due proof of the same has been made by the mother or guardian, when the father is dead, or has abandoned his family, or is an habitual drunkard, or does not provide for the support of such minor, and it appears that such minor is destitute of a suitable home and of adequate means of obtaining an honest living, or is in danger of being brought up to lead an idle and immoral life, and where such mother or guardian is unable to provide the proper support and care for such minor. [Amendment, Stats. 1893, 332.]

§ 21. Before conveying minors to said institution, the person or persons having charge of said minors shall ascertain from the superintendent whether they can be received; and if they cannot, then the case of such minors shall be disposed of as if this act had never been passed and no proceedings taken under it. [Amendment, Stats. 1893, 333.]

§ 22. In all cases where the commitment is executed by the official person, whose proceedings are usually evidenced by the record, or where the occasion of the commitment is a criminal charge or conviction against the infant, no other record shall be made (unless demanded by the infant, his parent, or guardian) than that, in substance, such infant (naming him), who on a day therein named was of the age of ——— years, having been brought before said court or officer, and it having been ascertained by the testimony of the witnesses that such infant was a suitable person to be committed to the instruction and discipline of such institution, and in case of conviction for crime (naming the offense), therefore such infant was ordered to be committed to said institution.

§ 23. Upon the discharge of any person committed to said school, the superintendent thereof, under such regulations and restrictions as the said board of trustees may prescribe, may provide such person with suitable clothing and five dollars in money, and procure transportation for such person to his or her home, if resident in this state, or to the county to which he or she may have been committed, at his or her option. [Amendment, Stats. 1893, 333.]

§ 24. Said board of trustees shall, with the approval of the governor, estimate and determine, as near as may be, the actual expenses per month of keeping and taking care of each minor committed to said institution, not including the use of grounds and buildings, and shall include a statement of such estimated price in each biennial report to the governor. When any minor is committed to said institution at the instance of his or her parent or guardian, or other protector, the cost of keeping said minor, including the cost of transporting to and from the institution, shall be wholly paid by such parent or guardian; unless by reason of the poverty of such parent or guardian or other good cause said board of trustees shall otherwise order and direct; in such case, such expenses, including the cost of transportation, shall be borne one half by the county from which such minor is committed, and the remaining one half shall be borne by the state; and in every case where a minor who has no parent, guardian, or other protector, who is able to pay the cost of transportation to and cost of maintenance at said school, is committed thereto, such cost of transportation and maintenance of such minor shall be borne, one half by the state and the other half by the county from which said minor is committed. The expense which any county may be liable to pay on account of any minor committed to said institution under the provisions of this act shall be paid by the board of supervisors into the state treasury on a certified and detailed statement as to the amount due therefor from such county being furnished to the auditor of the county by said superintendent; but in no case shall the amount charged to any county for the keeping of any minor exceed one half of the estimated cost to the state of his or her support, exclusive of the use of the permanent property of the institution. All moneys paid by such counties under the provisions of this section into the state treasury shall be placed in a fund, to be designated and known as the "Whittier Reform School Fund," for the use of said institution; provided, however, that no order shall be made by said board of trustees charging any county with one half of the cost of keeping in the institution any infant committed at the instance of his or her parent or guardian, or other protector, unless a certificate in writing is first produced, signed by the president of the board of supervisors of such county, setting forth that the case is one in which the expense should be charged to the state and county, and also setting forth the reasons for their being so charged. [Amendment, Stats. 1893, 333.]

§ 25. Immediately after the governor shall make proclamation that said institution is ready for the reception of inmates, the board of trustees shall make the estimated actual expense per month of keeping and taking care of the infants, as required under section twenty-four, which estimate shall control in such matters until the first biennial report of said board is made.

§ 26. If any person procure the escape of any person committed to the school, or advise or connive at, aid, or assist in such escape, or conceal any such person so committed after such escape, he shall, upon conviction thereof in any superior court, be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not less than two months nor more than one year, or by both such fine and imprisonment; or, if such person so convicted be under the age of sixteen years then he shall be sentenced to the school, as in this act provided. [Amendment, Stats. 1893, 334.]

§ 27. If any parent, or guardian, or master to whom a minor has been ap-

prenticed, or any person occupying the position of parent, protector, or guardian, in fact or in reality, by blood or marriage, not more remote than first cousin to such minor, shall feel aggrieved by such commitment to such institution when such commitment has been made under section twenty of this act, he may make written application to the board of trustees of the institution for the discharge of such minor, which application shall be filed with the superintendent, who shall inform the trustees thereof, and the same shall be heard and determined by such trustees at such time and place as they shall appoint for that purpose, not later than the next regular meeting of the board. Such application shall state the grounds of the applicant's claim to the custody of the minor, and the reasons for claiming such custody. Within ten days after hearing said application, the trustees shall make and announce their opinion thereon, and if they shall be of the opinion that the welfare of such minor would be promoted by granting the application, they shall make an order to that effect; otherwise, they shall deny the application. The applicant may, upon the denial of his application, by first giving security for the payment of all costs (the security to be approved by the clerk of the proper court) commence an action in the superior court of the county in which the institution may be situated, for the recovery of the custody of such minor, against the trustees of such institution. The complaint in said action shall state the fact and manner of the minor's commitment to the said institution, the making of the applicant's application to the trustees for the custody of such minor, and the overruling of such application by such trustees, as well as the ground upon which the applicant relies for the recovery of the custody of such minor. Said action shall be prosecuted in like manner as other civil actions, and the cost thereof shall be paid by the applicant without reference to the result of the action, unless the court shall state in the judgment that the refusal of the trustees to grant the application of the applicant was plainly unreasonable, or that the original commitment was manifestly improper and unnecessary. [Amendment, Stats. 1893, 334.]

§ 28. It shall be the duty of the sheriff of any county wherein an order is made or approved by a superior judge committing any minor to said school, to execute any and all writs of commitment issued or approved by said judge, and to receive as compensation therefor such fees as are now or may hereafter be provided by law for the transportation of prisoners to the state prison; provided, that in all cases where the commitment shall be made under section twenty of this act, the parent, guardian, or other protector of such minor may, at his option, and in all cases where he is liable, or where the estate of such minor is sufficient, execute said writ of commitment, after having been duly sworn therefor, with like powers and with like effect as the sheriff would possess in such case, but without expense to the said estate; and further provided, that in the case of minor females committed to said school, and there is no parent, guardian, or other protector of such minor, who, in the opinion of the court, is a proper person to safely conduct such female to said school, that then, in such case, the court shall appoint some suitable woman of satisfactory character and discretion, who shall take the custody of such minor female after her said commitment, and shall forthwith deliver her to said school, and be entitled to the same compensation therefor as is otherwise provided to be paid to the sheriff in all cases where, if such minor were a boy and were by a sheriff delivered to

said school, he, the said sheriff, would be entitled to receive compensation, under the terms of this act. [Amendment, Stats. 1893, 335.]

§ 29. In all cases where an infant has been committed to said school for any of the causes mentioned in section twenty of this act, and such minor, at the time of his commitment or afterwards, and during his term of confinement at said school, succeeds to any estate which is of sufficient value to cover his expenses to and from and while at said school, the same shall become subject to such expense; and the said superior court shall, by a proper order therein entered, cause the parent or guardian to sell so much of said minor's estate (there not being sufficient money) to pay such expenses. In each case the proceedings thereon shall be similar to those required of guardians in ordinary sales of the property of wards. When any money is realized by virtue of any such sales, the court, by proper order, shall cause the same, or a sufficient amount thereof, to be paid to the trustees of such institution; or in case any expense of said minor has been borne already by the state or county, then such court shall order said county and state to be fully reimbursed for said expense, by causing a sufficient amount therefor to be placed in the state and county treasury. [Amendment, Stats. 1893, 336.]

§ 30. The said board of trustees shall examine, audit, and allow the demands arising under the terms of the aforesaid act and the amendments thereto, and the state controller shall thereupon draw his warrants therefor payable out of the proper fund, and the state treasurer is hereby ordered to pay such warrants.

All acts or parts of acts in conflict with this act are hereby repealed. [Amendment, Stats. 1893, 336.]

§ 31. This act shall take effect and be in force from and after its passage.

§§ 16-19—Ex parte Liddell, 93 Cal. 633, 635, 29 Pac. Rep. 251. §§ 16-18, 24—Cochran vs. Los Angeles County, 117 Cal. 534, 536, 49 Pac. Rep. 570. § 17—Ex parte Becknell, 119 Cal. 496, 51 Pac. Rep. 692. § 24—Cochran vs. Los Angeles County, 117 Cal. 534, 537, 49 Pac. Rep. 570; Mitchell vs. Colgan, 122 Cal. 296, 54 Pac. Rep. 905. § 30—Mitchell vs. Colgan, 122 Cal. 296, 297, 54 Pac. Rep. 905.

WHITTIER, ETC., STATE SCHOOLS—COMMITMENTS TO.

Relating to commitments to the state school at Whittier and to the Preston School of Industry; fixing the authority to examine and commit to such schools with the superior court judges of the counties, and fixing the responsibilities from which commitments are made to the state for maintenance of the persons committed therefrom; providing for the manner of payment thereof, and fixing the responsibility of the parents to the counties from which their children are committed.

(Stats. 1895, 122, ch. CXXXI.)

§ 1. The superior judge of any county, and no other judicial officer, shall have power to examine, discharge, or commit any offender either to the Whittier State School or to the Preston School of Industry; provided, that the superior judge shall determine whether or not the parent or guardian of any minor committed to the Whittier State School or to the Preston School of Industry is able to pay to the county in which the commitment is made for the maintenance of such minor during the term of such commitment; and when the superior judge shall determine that said parent or guardian has the ability to pay as aforesaid

for the maintenance of such minor during the term of such confinement, the parent or parents or guardian shall pay into the treasury of such county the sum of eleven dollars per month in advance; and in case of the failure to pay the same as herein provided, it shall be the duty of the district attorney of such county to proceed to collect the amount from such parent, parents, or guardian in the manner that other indebtedness against the county is collected.

§ 2. For each and every person hereafter committed to either the Whittier State School or the Preston School of Industry, the county from which the commitment is made shall pay into the state treasury the sum of one hundred and thirty-two dollars per annum, and at that rate for each fraction of a year.

§ 3. It is hereby made the duty of the clerk of the superior court of the county from which such commitment is made, to certify to the county auditor the name, age, and date of commitment of each person committed by the superior judge thereof, and the amount due to the state from the county by reason of such commitments, and before the first day of May and December of each and every year to file with the treasurer of the county a statement of the number of commitments, with the date thereof, and the amount due from the county by reason of such commitments, to the state treasurer; and it is further made the duty of the county treasurer, during the settlement or at the time of the settlement with the state during the month of May and December of each year, to pay to the state treasurer, through the state controller, the amount so found to be due to the state by reason of commitments to the state schools as herein provided.

§ 4. The superintendents of the state school at Whittier and the Preston School of Industry are hereby required to transmit to the state treasurer a statement of all commitments to their respective institutions, showing the name of the person committed, the date of the commitment, and the county from which the commitment is made, and the amount due to the state from the county by reason of such commitments; said statement to be made quarterly, as follows: On or before the first day of January, the first day of April, the first day of July, and the first day of October of each year; and it is hereby made the duty of the controller of state to add [to] the amounts due to the state from said counties such sum as may be shown to be due by reason of commitments to such schools, as in section two of this act provided.

§ 5. All acts and parts of acts in conflict herewith are hereby repealed.

§ 6. This act shall take effect immediately.

§ 1—Matter of Robinson, 138 Cal. 491, 494, 71 Pac. Rep. 690.

WHITTIER STATE SCHOOL—GIRLS.

To authorize the board of trustees of the Whittier State School to contract for the care and keeping of girls committed to said school in charitable or benevolent institutions or with private persons, and to pay for their care while in such institution or with such persons.

(Stats. 1905, 226, ch. CCLIII.)

§ 1. The board of trustees of the Whittier State School are hereby authorized, and in proper cases it shall be their duty to contract for the care and keeping of any girl committed to said school with any charitable or benevolent

association organized for the purpose of caring for criminal or wayward girls, or with any woman of good moral character, and to place such girl in the care and keeping of such institution or woman, and to pay therefor out of the support fund of said school such sum as may be agreed upon, but in no case to exceed the sum of fifteen dollars per month, including board and clothing, for the actual time such girl is in the care and keeping of such institution or woman.

§ 2. The board of trustees of said school may recall and take back any girl so placed in the care and keeping of any institution or woman, when in their judgment it is for the interest of such girl to do so, and shall take back such girl whenever requested to do so by the institution or woman in whose care and keeping such girl has been placed.

§ 3. The said board of trustees shall require the institution or woman receiving any girl from said school under this act to report to them monthly concerning the behavior and progress of said girl, and such other matters as said board may desire. And it shall be their duty further to inform themselves concerning the behavior, progress and general welfare of said girl by causing her to be visited occasionally by such officer or agent of the school as they may select.

§ 4. Nothing in this act shall be construed as affecting the power to parole and discharge which is now or may hereafter be conferred by law upon said board, but in all cases the power of parole and final discharge shall remain in said board of trustees, the same as though said girl had remained an inmate of said school.

§ 5. Nothing in this act shall be construed as relinquishing the counties, or others liable, from the payment of such sums to the state for the cost of maintenance as is now, or may hereafter be required by law, but such sums shall be paid the same as though said girl had remained an inmate of said school.

§ 6. This act shall take effect and be in force from and after its passage.

WHITTIER STATE SCHOOL.

See **KERR'S CYC. POL. CODE** § 2153a.

WILD ANIMALS—DESTRUCTION OF.

See **tits. Animals** (Stats. 1883, 368); **Bounties**; **County Government Act** (subd. 26, § 25); **State—Actions Against.**

WILMINGTON.

See **tits. Municipal Corporations**; **Pilots.**

WINE—SOPHISTICATION AND ADULTERATION.

To prohibit the sophistication and adulteration of wine, and to prevent fraud in the manufacture and sale thereof.

(Stats. 1887, 46, ch. XXXVI.)

§ 1. For the purposes of this act, pure wine shall be defined as follows: The juice of grapes fermented, preserved, or fortified for use as a beverage, or as a medicine, by methods recognized as legitimate according to the provisions of this

act; unfermented grape juice, containing no addition of distilled spirits, may be denominated according to popular custom and demand as wine only when described as "unfermented wine," and shall be deemed pure only when preserved for use as a beverage or medicine, in accordance with the provisions of this act. Pure grape must shall be deemed to be the juice of grapes, only in its natural condition, whether expressed or mingled with the pure skins, seeds, or stems of grapes. Pure condensed grape must shall be deemed to be pure grape must from which water has been extracted by evaporation, for purposes of preservation or increase of saccharine strength. Dry wine is that produced by complete fermentation of saccharine contained in must. Sweet wine is that which contains more or less saccharine appreciable to the taste. Fortified wine is that wine to which distilled spirits have been added to increase alcoholic strength, for purposes of preservation only, and shall be held to be pure when the spirits so used are the product of the grape only. Pure champagne, or sparkling wine is that which contains carbonic acid gas or effervescence produced only by natural fermentation of saccharine matter of must, or partially fermented wine in bottle.

§ 2. In the fermentation, preservation, and fortification of pure wine, it shall be specifically understood that no materials shall be used intended as substitutes for grapes, or any part of grapes; no coloring matters shall be added which are not the pure product of grapes during fermentation, or by extraction from grapes with the aid of pure grape spirits; no foreign fruit juices, and no spirits imported from foreign countries whether pure or compounded with fruit juices or other material not the pure product of grapes, shall be used for any purposes; no aniline dyes, salicylic acid, glycerin, alum, or other chemical anti-septics or ingredients recognized as deleterious to the health of consumers, or as injurious to the reputation of wine as pure, shall be permitted; and no distilled spirits shall be added except for the sole purpose of preservation, and without the intention of enabling trade to lengthen the volume of fortified dry wine by the addition of water, or other wine weaker in alcoholic strength.

§ 3. In the fermentation and preservation of pure wine, and during the operations of fining, or clarifying, removing defects, improving qualities, blending and maturing, no methods shall be employed which essentially conflict with the provisions of the preceding sections of this act, and no materials shall be used for the promotion of fermentation, or the assistance of any of the operations of wine treatment, which are injurious to the consumer or the reputation of wine as pure; provided, that it shall be expressly understood that the practices of using pure tannin in small quantities, leaven to excite fermentation only, and not to increase the material for the production of alcohol; water before or during, but not after, fermentation, for the purpose of decreasing the saccharine strength of must to enable perfect fermentation; and the natural products of grapes in the pure forms as they exist in pure grape must, skins, and seeds; sulphur fumes to disinfect cooperage and prevent disease in wine; and pure gelatinous and albuminous substances, for the sole purpose of assisting fining, or clarification, shall be specifically permitted in the operations hereinbefore mentioned, in accordance with recognized legitimate custom.

§ 4. It shall be unlawful to sell, or expose, or offer to sell, under the name of wine, or grape musts, or condensed musts, or under any names designating

pure wines or pure musts, as hereinbefore classified and defined, or branded, labeled, or designated in any way as wine or musts, or by any name popularly and commercially used as a designation of wine produced from grapes, such as claret, burgundy, hock, sauterne, port, sherry, madeira, and angelica, any substance or compound, except pure wine, or pure grape must or pure grape condensed must, as defined by this act, and produced in accordance with and subject to restrictions herein set forth; provided, that this act shall not apply to liquors imported from any foreign country, which are taxed upon entry by custom laws in accordance with a specific duty, and contained in original packages or vessels, and prominently branded, labeled, or marked, so as to be known to all persons as foreign products, excepting, however, when such liquor shall contain adulterations of artificial coloring matters, antiseptic chemicals, or other ingredients known to be deleterious to the health of consumers; and provided, further, that this act shall not apply to currant wine, gooseberry wine, or wines made from other fruits than the grape, which are labeled or branded and designated, and sold or offered or exposed for sale, under names, including the word wine, but also expressing distinctly the fruit from which they are made, as gooseberry wine, elderberry wine, or the like. Any violation of any of the provisions of any of the preceding sections shall be a misdemeanor.

§ 5. Exceptions from the provisions of this act shall be made in the case of pure champagne, or sparkling wine, so far as to permit the use of crystallized sugar in sweetening the same according to usual customs, but in no other respect.

§ 6. In all sales and contracts for sale, production, or delivery of products defined in this act, such products, in the absence of a written agreement to the contrary, shall be presumed to be pure, as herein defined, and such sale or contracts shall, in the absence of such an agreement, be void, if it be established that the products so sold or contracted for were not pure as herein defined; and in such case the concealment of the true character of such products shall constitute actual fraud for which damages may be recovered, and in a judgment for damages, reasonable attorney fees, to be fixed by the court, shall be taxed as costs.

§ 7. The controller of the state shall cause to have engraved plates, from which shall be printed labels, which shall set forth that the wine covered by such labels is pure California wine, in accordance with this act, and leaving blanks for the name of the particular kind of wine and the name or names of the seller of the wine and place of business. These labels shall be of two forms or shapes, one a narrow strip to cap over the corks of bottles, the other a round or square and sufficiently large, say three inches square, to cover the bungs of packages in which wine is sold. Such labels shall be furnished upon proper application to actual residents, and to be used in this state only, and only to those who are known to be growers, manufacturers, traders, or handlers, or bottlers of California wine; and such parties will be required to file a sworn statement with said controller, setting forth that his or their written application for such labels is and will be for his or their sole use and benefit, and that he or they will not give, sell, or loan such label to any other person or persons whomsoever. Such labels shall be paid for at the same rate and price as shall be found to be the actual cost price to the state, and shall be supplied from time

to time as needed, upon the written application of such parties as are before mentioned. Such label, when affixed to bottle or wine package, shall be so affixed that by drawing the cork from bottle or opening the bung of package, such label shall be destroyed by such opening; and before affixing such labels, all blanks shall be filled out, by stating the variety or kind of wine that is contained in such bottle or package, and also by the name or names and post-office address of such grower, manufacturer, trader, handler, or bottler of such wine.

§ 8. It is desired and required that all and every grower, manufacturer, trader, handler, or bottler of California wine, when selling or putting up for sale any California wine, or when shipping California wine to parties to whom sold, shall plainly stencil, brand, or have printed where it will be easily seen, first, "Pure California Wine," and secondly his name, or the firm's name, as the case may be, both on label of bottle or package in which wine is sold and sent; or he may in lieu thereof, if he so prefers and elects, affix the label which has been provided for in section seven. It shall be unlawful to affix any such stamp or label as above provided to any vessel containing any substance other than pure wine as herein defined, or to prepare, or use on any vessel containing any liquid, any imitation or counterfeit of such stamp, or any paper in the similitude or resemblance thereof, or any paper of such form and appearance as to be calculated to mislead or deceive any unwary person, or cause him to suppose the contents of such vessel to be pure wine. It shall be unlawful for any person or persons, other than the ones for whom such stamps were procured, to in any way use such stamps, or to have possession of the same. A violation of any of the provisions of this section shall be a misdemeanor, and punishable by fine of not less than fifty dollars and not more than five hundred dollars, or by imprisonment in the county jail for a term of not exceeding ninety days, or by both such fine and imprisonment. All moneys collected by virtue of prosecutions had against persons violating any provisions of this or any preceding sections shall go, one half to the informer, and one half to the district attorney prosecuting the same.

§ 9. It shall be the duty of the controller to keep an account, in a book to be kept for that purpose, of all stamps, the number, design, time when and to whom furnished. The parties procuring the same are hereby required to return to the controller semiannual statements under oath, setting forth the number used, and how many remains on hand. Any violation of this section by the person receiving such stamps is a misdemeanor.

§ 10. It shall be the duty of any and all persons receiving such stamps to use the same only in their business, in no manner or in nowise to allow the same to be disposed of except in the manner authorized by this act; to not allow the same to be used by any other person or persons. It shall be their duty to become satisfied that the wine contained in the barrels or bottles is all that said label imports as defined by this act. That they will use the said stamps only in this state, and shall not permit the same to part from their possession, except with the barrels, packages, or bottles upon which they are placed as provided by this act. A violation of any of the provisions of this section is hereby made a felony.

§ 11. This act shall take effect and be in force ninety days after its passage.

Consult **KERR'S CYC. PEN. CODE** § 382. parte Kohler, 74 Cal. 38, 15 Pac. Rep. 436;
 § 8—Ex parte Campbell, 74 Cal. 20, 29, 5 Merced County vs. Helm, 102 Cal. 159, 164,
 Am. St. Rep. 418, 15 Pac. Rep. 318; Ex 36 Pac. Rep. 399.

WITNESS FEES.

See tit. **Fees of Officers.**

WOMEN.

See tits. **Females; Married Women; Prostitution; Schools.**

WOMEN—PHYSICIANS.

See **KERR'S CYC. POL. CODE** § 2153; also tit. **State Lunacy Commission.**

WOMAN'S RELIEF CORPS ASSOCIATION.

Appropriations have been made in aid of this association, Stats. 1897, 447, ch. CCLXXIV; 1903, 514, ch. CCCLXV; also 1905, 787, ch. DLXXXV.

See tits. **Married Women; Prostitution.**

WOODLAND.

See tit. **Municipal Corporations.**

WORKSHOPS AND FACTORIES.

See tit. **Factories and Workshops.**

WRITS—PROCESS—SEAL.

See tits. **Counties, New; Process; Seal.**

YOLO COUNTY.

The following local legislation may be consulted:

To develop agricultural interests by construction of a canal in Colusa, Solano, and Yolo counties, 1865-6, 451, ch. CCCLXVIII.

To quiet title to certain lands, 1871-2, 803, ch. DLXI; 1873-4, 492, ch. CCCXXV;

1873-4, 818, ch. DLXXVIII; and 1877-8, 943, ch. DXCIII.

To establish a public road along the boundary between Yolo and Colusa counties, 1873-4, 213, ch. CLVIII.

To provide drainage of lands in Colusa and Yolo counties, 1877-8, 1037, ch. DCLXX.

YOSEMITE VALLEY.

To accept the grant by the United States government to the state of California of the Yosemite Valley, and of the land embracing the Mariposa Big Tree Grove, and to organize the board of commissioners, and to fully empower them to carry out the objects of the grant and fulfil the purposes of the trust.

(Stats. 1865-6, 710, ch. DXXXVI.)

[The foregoing act is practically superseded by Political Code, §§ 3584-3586, and Stats. 1880, 44, ch. LVIII, as amended 1885, 212, ch. CLXIII; ante tit. **Big Tree Groves**; but §§ 5, 6, of the Stats. 1865-6, 710, are not covered by the later legislation above referred to. Following are the sections:]

§ 5. The state geologist is hereby authorized to make such further explorations on the said tracts and in the adjoining region of the Sierra Nevada Mountains as may be necessary to enable him to prepare a full description and accurate statistical report of the same, and the same shall be published in connection with the reports of the geological survey.

§ 6. It shall be unlawful for any person wilfully to commit any trespass whatever upon said premises, cut down or carry off any wood, underwood, tree, or timber, or girdle or otherwise injure any tree or timber, or deface or injure any natural object, or set fire to any wood or grass upon said premises, or

destroy or injure any bridge or structure of any kind, or other improvement that is or may be placed thereon. Any person committing either or any of said acts without the express permission of said commissioners through said guardian shall be guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

And see Stats. 1873-4, 347, ch. CCXLIX, ante.

See tit. **Big Tree Groves**. And see next following act, to cede to the United States.

YOSEMITE—REGRANTING TO UNITED STATES.

To recede and regrant unto the United States of America, the "Yosemite Valley," and the land embracing the "Mariposa Big Tree Grove."

(Stats. 1905, 54, ch. LX.)

§ 1. The state of California does hereby recede and regrant unto the United States of America, the "Cleft" or "Gorge" in the granite peak of the Sierra Nevada Mountains, situated in the county of Mariposa, state of California, and the headwaters of the Merced River, and known as the Yosemite Valley, with its branches or spurs, granted unto the state of California in trust for public use, resort and recreation by the act of Congress entitled "An act authorizing a grant to the state of California of the Yosemite Valley and of the land embracing the 'Mariposa Big Tree Grove,' " approved June thirtieth, eighteen hundred and sixty-four; and the state of California does hereby relinquish unto the United States of America and resign the trusts created and granted by the said act of Congress.

§ 2. The state of California does hereby recede and regrant unto the United States of America, the tracts embracing what is known as the "Mariposa Big Tree Grove," granted unto the state of California in trust for public use, resort and recreation by the act of Congress referred to in section one of this act; and the state of California does hereby relinquish unto the United States of America and resign the trusts created and granted by the said act of Congress.

§ 3. This act shall take effect from and after acceptance by the United States of America of the recessions and regrants herein made, thereby forever releasing the state of California from further cost of maintaining the said premises, the same to be held for all time by the United States of America for public use, resort and recreation, and imposing on the United States of America the cost of maintaining the same as a national park. Provided, however, that the recession and regrant hereby made shall not affect vested rights and interests of third persons.

Statutes making appropriations have been omitted; but see tit. **Roads and Highways**.

YREKA CITY.

See tit. **Municipal Corporations**.

YUBA CITY.

See tit. **Municipal Corporations**.

YUBA COUNTY—RECORDS.

Concerning the records of Yuba County.

(Stats. 1856, 139, ch. CXVIII.)

§ 1. The county recorder of Yuba County is hereby authorized and required, as soon as the same can be conveniently done, to transcribe, in such manner and into such books, as are prescribed by section twelve of the act entitled "An act concerning county recorders," passed March twenty-sixth, eighteen hundred and fifty-one, the following books of record in his office of deeds, mortgages, powers of attorney, and other instruments, namely:

First. The books which were kept by Stephen J. Field, as alcalde of Marysville, or Yubaville.

Second. The books which were kept by Phelps W. Keyser, as alcalde — of Eliza.

Third. The books which were kept by Alfred — Lawton, as recorder of Yuba County.

And he shall make an index to the record thus transcribed, which shall conform, as near as possible, to the indices required by section fourteen of the act concerning county records, passed March twenty-sixth, eighteen hundred and fifty-one, and he shall note on the margin of each record transcribed, the name of the original volume, and the number of the original page.

§ 2. Copies of any of the records transcribed, as provided in the last section, certified to be full, true and correct copies, under the hand and seal of the recorder, shall be legal evidence, and be received in all the courts of this state, and in all actions and proceedings therein, with like effect, as the original deed, mortgage, power of attorney, or other instrument could be, if presented and proved as required by law; and the records as transcribed shall, to all intents and purposes, impart and convey notice to all subsequent purchasers, mortgagees, assignees, attachment and judgment creditors.

§ 3. For service, under this act, the recorder shall receive pay out of the county treasury, at the rate of twenty cents per folio of one hundred words, and he shall be allowed no further compensation whatever for services under this act.

§ 4. The said transcript shall be denominated the transcribed records of deeds, mortgages, powers of attorney, and other instruments, and be designated as books number one, and upwards, as may be necessary, as follows:

Transcribed records of deeds, number one.

Transcribed records of mortgages, number one.

Transcribed records of powers of attorney, number one.

§ 5. The original records shall be carefully preserved in the office of said recorder.

See next following statute.

YUBA COUNTY—RECORDS.

To provide for transcribing certain records in the county of Yuba.

(Stats. 1877-8, 212, ch. CLXXV.)

§ 1. The board of supervisors of the county of Yuba are hereby authorized and empowered to have transcribed certain torn and mutilated records of said county, and pay a fair and reasonable compensation therefor.

§ 2. This act shall take effect from and after its passage.

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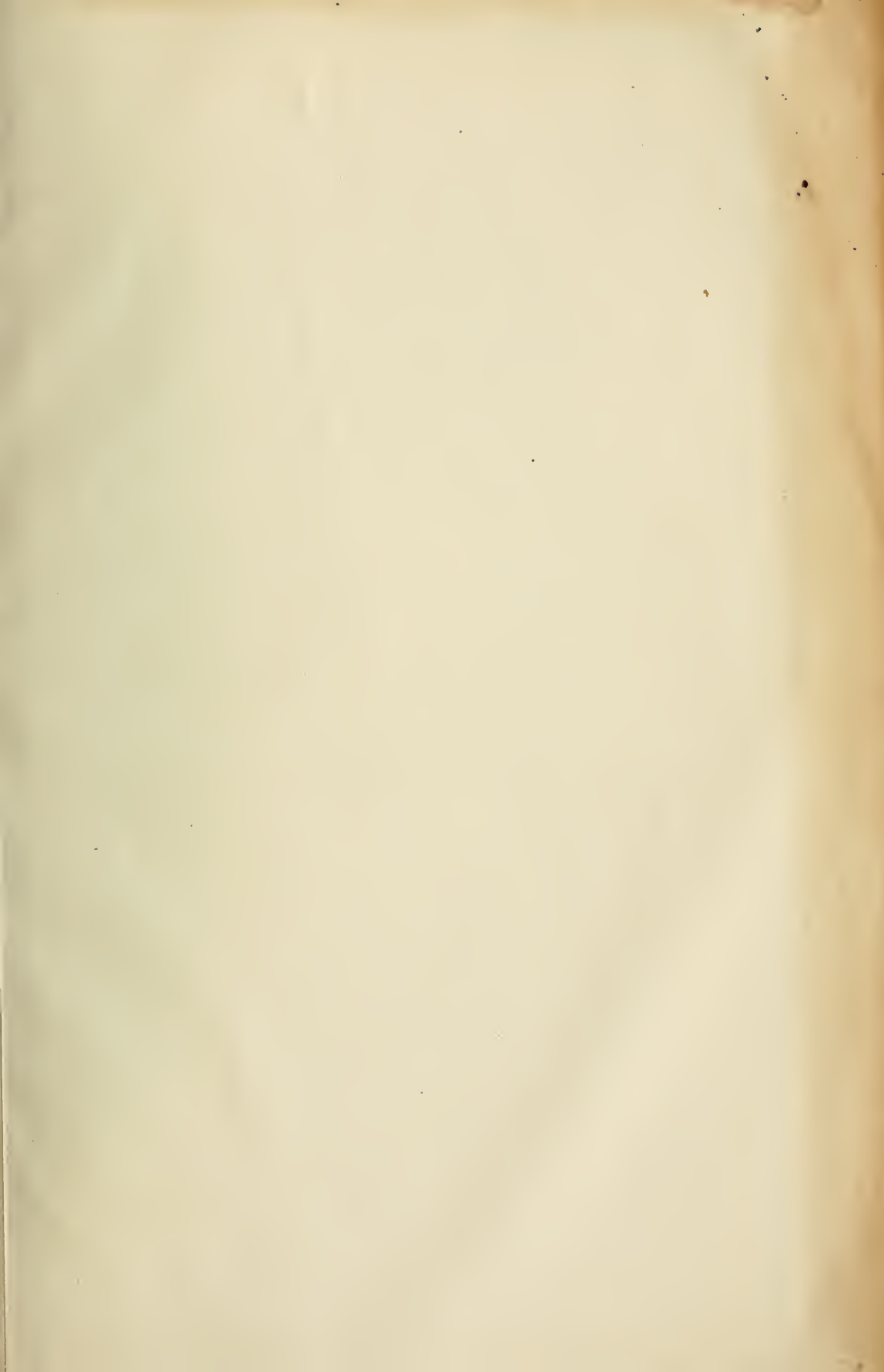
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